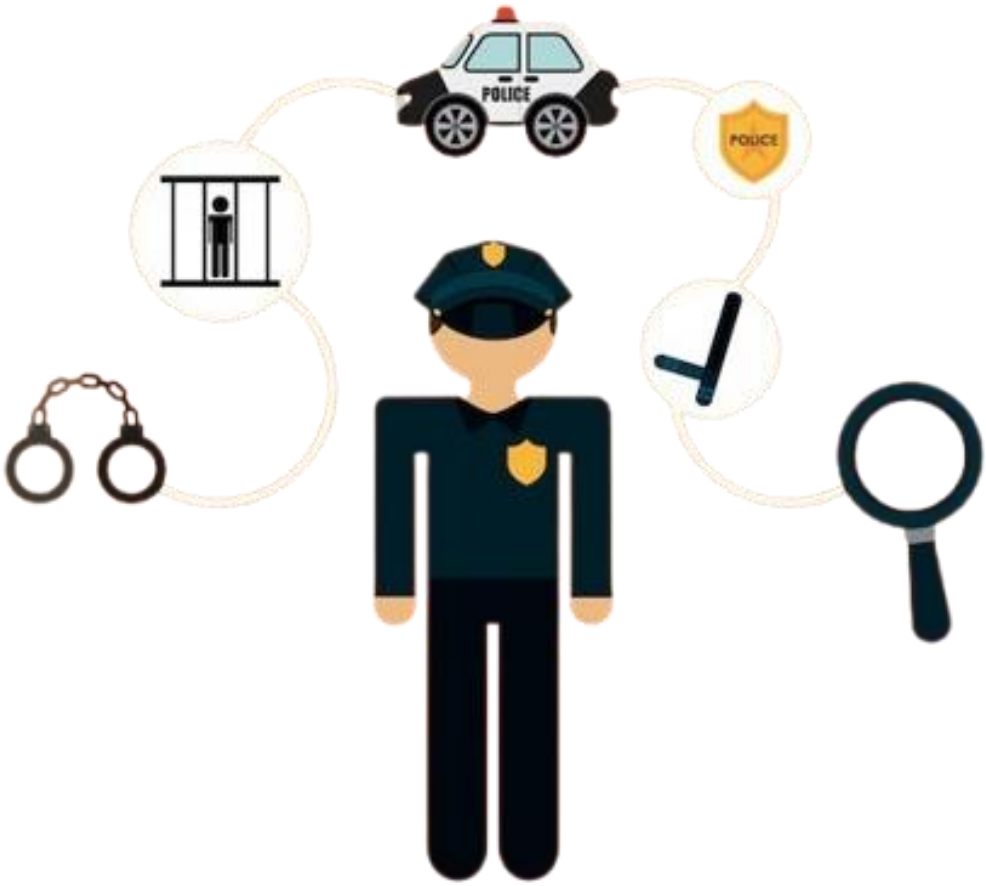
Law Enforcement Handbook

(Part 1)

Manual for Police Officers and Judicial Officers



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Egyptian Commission for Rights and Freedoms

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Executive Summary

Judicial officers are persons who have been granted the status of judicial officers by law to investigate crimes, search for perpetrators, and collect evidence necessary for investigation and prosecution.

Judicial officers must have sufficient knowledge of the Code of Criminal Procedure, otherwise, they will not perform their work properly, especially in regard to the arrest or search procedures and taking the statements of the accused because a defect in one of the procedures may result in the invalidity of all the following procedures. The mistakes of judicial officers may often lead to the accused escaping from the punishment stipulated in the law due to an error in the legal procedures, which negatively affects justice.

Whereas the rule of law is the basis of government in the State, that is, the law applies to all citizens and the application and interpretation of the law is not subject to the personal jurisprudence of those who implement it.

Therefore, judicial officers must comply with the law in their work, and apply it in all cases, as if the law is applied in a specific case and not applied in the like, this will lead to chaos in the application of the law as well as the absence of legal security.

Judicial officers must also abide in the exercise of their work by the principle of innocence presumed in all people and be committed to protecting the rights of the accused or suspect, the most important of which is his right to the safety of his body, and his right to life.

Judicial officers must also abide by the tasks assigned to them by the Constitution and the law, using the powers assigned to them by the law.

The work of judicial officers is also subject to control and accountability, whether criminal, civil or disciplinary responsibility.

Therefore, in this guide, we deal with the principles governing the work of judicial officers, as well as the tasks assigned to them and the powers granted to them, and then we finally deal with the methods of control and the issues in their work, comparing that in the Egyptian constitution and internal laws, with the international standards stipulated in international agreements and principles.

Preamble: General Principles

First: The Principle of the Rule of Law - The Legal State

Article 94 of the Constitution states: "The rule of law is the basis of governing in the State.

The State shall be governed by the Law. The independence, immunity, and impartiality of the judiciary are essential guarantees for the protection of rights and freedoms."

The principle of the rule of law, as stipulated in Article 94 of the Constitution, entails applying the principles and foundations of a state governed by law to all citizens equally. It rejects subjecting the application and interpretation of the law to the personal discretion of those tasked with its enforcement. Granting judicial officers discretionary authority on a case-by-case basis could lead to the misuse of power, which contradicts the principles of a lawful state. Allowing such discretion would result in the selective application of the law in certain cases while neglecting its enforcement in others, leading to chaos in the implementation of laws and the absence of legal security. Legal security is an inherent quality of any legal system, aiming to instill a sense of fairness in the procedures applied[1].

A lawful state is one that grants fundamental rights and freedoms to those residing within its territory, ensuring that these rights align with the principles and obligations the state has adopted within its society and consistently adhered to in its conduct. Such a state does not diminish the protections it provides to those exercising these rights beyond what is necessary to ensure their effectiveness.

A lawful state is characterized by adherence to legal rules that take precedence over its authorities, regardless of their functions or goals. These rules regulate the state's actions and guide its decisions. The principle of the rule of law integrates with the principle of legality to provide fundamental safeguards for protecting individuals' rights and freedoms, restraining the state from overstepping its bounds. The legal framework that defines the concept of a lawful state is superior to the state itself and binds it. This framework is defined by democratic principles that form the basis of the system of governance, as stipulated by constitutional provisions [2].

In this regard, the Supreme Constitutional Court ruled that: [The legal state is the one that, in the exercise of its powers, whatever its functions or objectives, adheres to legal rules that transcend it, and set it on its heels if it exceeds them, so it does not disregard them, as these powers, and whoever is responsible for them, are not considered a personal privilege for those who assume them, nor are they of their own making, but rather they were established by the will of the masses

(1) Article 94 of the amended Constitution of the Arab Republic of Egypt of 2014.

(2) The Supreme Administrative Court in Appeal No. 5365 of 63 S issued at the session of 21 April 2018, Appeal No. 5786 of 63 S issued at the session of 21 April 2018, and the judgment of the Administrative Court No. 51292 of 62 S issued at the session of 27 January 2009, page No. 360.

in their gatherings throughout the country, and set them with peremptory rules that may not be waived, and therefore these rules are a restriction on all their actions and actions, so they do not come to them except within the limits set by the Constitution][3].

The principle of the state's subordination to the rule of law has become one of the fundamental pillars of a lawful state and a crucial safeguard for the protection of human rights and freedoms.

To solidify the principle of equality among citizens in rights, freedoms, and duties, the Egyptian Constitution has adopted an approach consistent with modern systems. It establishes the rights and security of the individual as a constitutional objective and a fundamental principle that defines the relationship between the individual and the state. This approach strengthens the bonds of loyalty, belonging, a sense of security, and equal opportunities among all citizens [4].

The principle of the state's subordination to the rule of law is one of the fundamental pillars of a lawful state. This principle ensures the safeguarding and respect of individuals' rights, whether through their recognition, granting, or limitation. While international legislations and systems have placed significant emphasis on individual rights and freedoms, the Egyptian Constitution has addressed these rights and freedoms through regulation and organization in a manner that preserves citizens' full constitutional rights. At the same time, it enables public authorities to maintain public order, encompassing public safety and tranquility, by carrying out their regulatory and security functions.

This is achieved in alignment with a foundational principle underpinning the Egyptian judicial system: the presumption of innocence, which states that an accused person is presumed innocent until proven guilty by a definitive judicial ruling [5].

The principle of the state's subordination to the rule of law, in light of democratic concepts, is founded on the premise that existing legislation must not undermine the rights and guarantees that constitute the pillars of a lawful state. The Constitution, as the supreme fundamental law,

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([3]) The judgment of the Supreme Constitutional Court in Case No. 12 of 39 S issued at the session of March 3, 2018, the date of publication of March 7, 2018, page No. 21, also ruled that: [The legal state is the one that adheres in all aspects of its activity and whatever the nature of its authority with legal rules above it, and is itself an officer of its actions and behavior in its various forms, as the exercise of power is no longer a personal privilege for anyone, but it acts on behalf of the group and for its benefit, and because the legal state is the one in which every citizen has the primary guarantee to protect his rights and freedoms. In which the organization and exercise of authority is within a framework of legitimacy, which is a guarantee supported by the judiciary through its independence and immunity, so that the legal rule becomes the focus of each organization, the limit of each authority, and a deterrent against every aggression, and it is also decided in the judiciary of this court that the principle of the state's submission to the law, to the effect that its legislation does not prejudice the rights that recognition in democratic countries is a primary assumption for the establishment of the legal state, and a basic guarantee for the preservation of human rights and dignity, and includes the range of rights related to personal freedom] The ruling of the Supreme Constitutional Court in Case No. 53 of 31 S issued At the session of November 4, 2017, the date of publication is November 15, 2017, page No. 26.

([4]) See the ruling of the Administrative Court in Case No. 22653 of 60 BC issued at the session of 23 December 2008, page No. 223.

([5]) The judgment of the Administrative Court in Case No. 43008 of 61 BC issued at the session of 23 December 2008, page No. 241.

establishes the foundations and principles of the system of governance. It defines the functions and limits of public authorities' activities while enshrining public rights and freedoms and outlining the mechanisms for their protection[6].

The Supreme Constitutional Court ruled that:

"The Constitution, in Article 1, establishes the system of governance on the basis of citizenship and the rule of law. This indicates that, in the realm of citizens' rights and freedoms, the content of the legal rule—which is superior in a lawful state and binding upon it—must be determined in light of the standards consistently adhered to by democratic states in their societies. These standards are reflected in their practices across various aspects of governance, as adherence to them is a fundamental prerequisite for affirming compliance with the rule of law. This adherence must not infringe upon those rights, as the recognition of these rights in democratic states—and their application according to their standards—expresses an acknowledgment of their guarantees, confining restrictions to the limits of necessity without undermining the essence of these rights, thus ensuring their effectiveness and fulfilling their role in serving related interests.

Since the Constitution, in Article 94, states that the state is subject to the rule of law and that judicial independence, immunity, and impartiality are fundamental guarantees for protecting rights and freedoms, as reaffirmed in Articles 184 and 186, it demonstrates that a lawful state is one where all forms of activity—regardless of the nature of its authorities—are subject to legal rules that are superior to the state itself. These rules regulate its actions and decisions in their various forms. Exercising authority is no longer a personal privilege; it is carried out on behalf of the community and for its benefit. A lawful state ensures every citizen has fundamental safeguards to protect their rights and freedoms, while authority is organized and exercised within the framework of legality. This is a safeguard reinforced by the judiciary through its independence and immunity, making the legal rule the cornerstone of all governance structures, a boundary for all authority, and a deterrent against any transgressions.

Consequently, sound criminal justice policy must be based on coherent elements. If it is based on conflicting elements, it leads to a disconnection between the provisions and their purposes, preventing the achievement of intended objectives due to the lack of a logical link between them. It is fundamental in legislative provisions in a lawful state that they are rationally connected to their goals, as legislative arrangements are not ends in themselves but means to achieve these objectives. Therefore, it is essential to determine whether the contested provision adheres to a logical framework within its operational scope, ensuring the harmony of its intended purposes, or whether it conflicts with its objectives or exceeds them, thereby contravening the principle of the rule of law as stipulated in Article 94 of the Constitution."

The court further ruled that:

([6]) Judgement of the Administrative Court in Case No. 26194 of 62 S issued on December 2, 2008, page No. 165.

"The current Constitution, in Article 94, affirms the state's subjection to the rule of law and that judicial independence, immunity, and impartiality are fundamental guarantees for protecting rights and freedoms. These principles are reiterated in Articles 184 and 186. This demonstrates that a lawful state is one where all forms of activity—regardless of the nature of its authorities—are subject to legal rules that are superior to the state itself. These rules regulate its actions and decisions in their various forms. Authority is no longer a personal privilege; it is exercised on behalf of the community and for its benefit. A lawful state ensures every citizen has fundamental safeguards to protect their rights and freedoms, while authority is organized and exercised within the framework of legality. This safeguard is upheld by the judiciary through its independence and immunity, making the legal rule the cornerstone of all governance structures, a boundary for all authority, and a deterrent against any transgressions."[7].

([7]) Judgment of the Supreme Constitutional Court in Case No. 166 of 31 S, issued at the session of July 6, 2019, date of publication July 10, 2019, page No. 15

It also ruled that: [The legal state and what is stipulated in Article (94) of the 2014 Constitution is the one that abides in the exercise of its powers, whatever its functions or purposes, by legal rules that transcend it, and respond to it on its heels if it exceeds them, so that it does not disintegrate from them, as these powers and whoever is responsible for them are not considered a personal privilege for those who assume them, nor are they of their own making, but rather they were established by the will of the masses in their gatherings throughout the country, and seized by jus cogens rules that may not be waived, and then these rules are a restriction on all their actions and actions, so that they do not come to them except within the limits set by the Constitution, and in a manner that takes care of the interests of their society] The ruling of the Supreme Constitutional Court in Case No. 185 of 32 Q issued at the session of May 4, 2019, the date of publication of May 12, 2019, page No. 3, and Case No. 166 of 37 Q issued at the session of February 2, 2019, publication date of February 11, 2019, page 32,

It ruled that: [It is established in the jurisprudence of this court that the state's submission to the law is determined in the light of a democratic concept, to the effect that its legislation does not prejudice the rights that are recognized in democratic countries as a primary presumption for the establishment of the legal state, and as a basic guarantee for the preservation of human rights, dignity and integral personality, and includes a range of rights closely related to personal freedom guaranteed by the Constitution. [The judgment of the Supreme Constitutional Court in Case No. 22 of 38 S issued at the session of November 3, 2018, published on November 13, 2018, page No. 80,

It ruled that: [The legal state is the one that adheres in all aspects of its activity and whatever the nature of its authorities to legal rules that transcend it and are themselves a control of its actions and actions in their various forms, as the exercise of authority is no longer a personal privilege for anyone, but it acts on behalf of the group and for its benefit; and because the legal state is the one in which every citizen has the primary guarantee to protect his rights and freedoms, and to organize and exercise authority within a framework of legitimacy, which is a guarantee supported by the judiciary through its independence and immunity to become the legal base for each organization, uniting each authority, and a deterrent against each aggression] The ruling of the Supreme Constitutional Court in Case No. 102 of 36 s issued at the hearing of October 13, 2018, the publication date of October 22, 2018, page No. 23, and Case No. 13 of 37 s issued at the hearing of June 3, 2017, the publication date of June 13, 2017, page No. 35, and Case No. 234 of 36 s issued at the hearing of December 3, 2016, the publication date of December 15, 2016, page No. 36,

It also ruled that: [Whereas the legal state, as stipulated in Article (94) of the Constitution, is the one that, in the exercise of its powers, whatever its functions or objectives, adheres to legal rules that transcend it, and returns it to its aftermath if it exceeds them, so that it does not break away from them, and the content of the legal rule, which is considered a framework for the legal state, transcends and restricts it, is determined from the perspective of the democratic concepts on which the system of government is based on what is stipulated in Articles (1), (4) and(5) of the Constitution, Whereas the principle is in the authority of the legislator in regulating the rights established by the Constitution and what has been done by the judiciary of this court that it is a discretionary authority, the essence of which is the trade-off between the various alternatives that are related to the subject matter of the regulation to choose the most appropriate to its content, and to achieve the purposes it seeks, and ensure it to meet the most important interests, and there is no restriction on the legislator's exercise of this authority except that the Constitution itself has imposed specific controls on its exercise that are considered a delineation that should be adhered to, and in the framework of this organization, the legislator does not adhere to following rigid forms that he does not deny,

The court also ruled that:

"Sound legislative policy must be based on coherent elements. If it is built on conflicting elements, it results in a lack of connection between the provisions and their intended purposes, rendering them incapable of achieving their desired objectives due to the absence of a logical relationship between them. It is fundamental in legislative provisions—in a lawful state—that they are rationally connected to their objectives, as any legislative arrangement is not an end in itself but merely a means to achieve those objectives.

Therefore, it is always necessary to ascertain whether the contested provision adheres to a logical framework within the scope in which it operates, ensuring the harmony of the purposes it aims to achieve, or whether it contradicts its objectives, exceeds them, or undermines them. Such a contradiction would violate the principle of the rule of law as stipulated in Article 94 of the Constitution."[8].

It also ruled that: [A rational legislative policy must be based on homogeneous elements, if it is based on incompatible elements that result in the lack of a link between the texts and their objectives, so that they do not lead to the achievement of the intended purpose because of the lack of a logical link between them, in recognition that the origin in the legislative texts - in the legal state - is its association with its objectives, as any legislative regulation is not intended for itself, but is only a means to achieve those objectives, and therefore it must always be evidenced whether the challenged text adheres to a logical framework for the department in which it operates, ensuring that the purposes it aims at, or is subdued with or exceeds its purposes, and thus contrary to the principle of the state's submission to the law stipulated in Article (94) of the Constitution][9].

It also ruled: [The decision in the judiciary of this court is the keenness of the Constitution - in order to protect public freedoms - to ensure personal freedom for its contact with the individual entity since its existence, and to surround it with many guarantees to protect it, and the freedoms and sanctities that derive from it, and to raise it to the rank of constitutional rules, as it is not permissible for the ordinary legislator to violate those rules, and the guarantee included to preserve those freedoms, otherwise his work is contrary to constitutional legitimacy.

Whereas the text of Article (54) of the existing Constitution has celebrated personal freedom, raising it to the level of the rights inherent in the person of the citizen, which does not explicitly accept the text of the first paragraph of Article (92) of that Constitution as a disruption or

its templates are emptied in a deaf and irreplaceable form, but he may To differ between them, and to assess for each case what suits them, in the light of advanced concepts required by the situations in which the right is exercised, and in a manner that does not amount to wasting it] The judgment of the Supreme Constitutional Court in Case No. 18 of 37 S issued at the session of 1 March 2015, the date of publication 1 March 2015, and Case No. 15 of 37 S issued at the session of 1 March 2015, the date of publication 1 March 2015.

([8]) Case No. 13 of 37 S. Issued at the hearing of June 3, 2017 Date of publication June 13, 2017 Page No. 35.

([9]) Supreme Constitutional Court, Case No. 116 of 22 S issued at the 6th session of May 2017, publication date 15th of May 2017, page No. 3, Case No. 227 of 25 S issued at the 4th session of February 2017, publication date 15th of February 2017, page No. 3.

derogation, and is inseparable from the human person, and does not authorize its departure from it, and this follows the values of democratic societies, which adhere to the legal frameworks and controls of the state, making personal freedom an essential tributary of other rights and freedoms, shared by reason and cause, and shared by purpose and purpose, strict in protecting them, ordering to preserve them, preventing - according to the text of Article (99) of the Constitution - the statute of limitations for the crime of aggression against it, not to mention its violation, except for a criminal crime in flagrante delicto, or for the requirement of a reasoned judicial order necessitated by an investigation conducted by the competent judicial authority in circumstances other than flagrante delicto, which requires that the criminal text of the measures restricting freedom include a designation of these measures, the conditions of their application and their reasons, their scope, frameworks and controls governing them, while ensuring the constitutional rights of those who have taken any of these measures before them, especially informing them of the reasons for this, informing them in writing of their rights, and ensuring their right to litigation and defense in the frameworks specified by the Constitution, and ensuring that they are included in the text of Article (54)) from it, including the right to file a grievance before the judiciary against these procedures, and to decide on it within a week from the date of taking the action, which are guarantees that the constitution obliges the law to abide by, and that the text restricting freedom achieves them, otherwise it falls in violation of the constitution.

Whereas it is established in the jurisprudence of this court that the principle of the state's submission to the law - in accordance with the text of the second paragraph of Article (94) of the existing Constitution - is determined in the light of a democratic concept that its legislation does not prejudice the rights whose recognition in democratic countries is a primary assumption of the establishment of the legal state, and a basic guarantee for the preservation of human rights, dignity and integral personality, and under which the range of rights pertinent to personal freedom, in view of their components and characteristics, falls.

Whereas it is legally established that the application of precautionary measures, by judgment or judicial order, is only on those who have manifestations of criminal danger that threaten society, it is not entitled to interfere with social defense measures to confront individuals who have not committed a crime, or have not shown manifestations of criminal danger, which means that although allowing the imposition of the precautionary measure involves infringements on the freedom of the person, these measures, if signed, must be subject to the principle of constitutional legitimacy] ([10].

The constitutional principle according to which the state is subject to the law - in the light of democratic concepts - is based on the fact that the legislation in force does not violate the rights and guarantees prescribed for the citizen and respects them as one of the primary assumptions of the establishment of the legal state, and that the Constitution, as the supreme basic law, which

([10]) Supreme Constitutional Court, Case No. 49 of 28 S issued in the session of 1 April 2017, publication date 10 April 2017, page No. 12.

established the rules and principles of the system of government on the basis of which the functions of public authorities and the limits of their activity are determined while ensuring and maintaining public rights and freedoms and ways to protect them, and that there is a constitutional obligation to treat a citizen who is imprisoned or whose freedom is restricted with the treatment that preserves human dignity, and that the criminal penalty and the procedures followed to implement it must be a barrier to entering criminality and its perceptions and the need to prepare the guilty for a better life, which can only be achieved by taking into account his rights specified by the laws and regulations implementing them, in order to achieve the satisfaction of some of his legitimate needs and rights, including his right and his family to see him during the period of imprisonment, which reflects positively on his behavior inside the prison in preparation for a life of integrity outside the prison in which the goal of the penal system is achieved.

In terms of adhering to the principles of legitimacy in the field of criminalization and punishment and in the field of preserving freedoms, it is related to the legal principles of the state and the distinction between the state of law and the state of tyranny, but in view of the behavior of the state towards its citizens, through the punitive laws it issues based on its authority and the means and procedures it adopts to implement those laws, as the state may not resort to similar lawlessness, because this would undermine its legitimacy[11].

The Supreme Constitutional Court ruled that the license to arrest, detain and search persons and places without a reasoned judicial warrant violates the personal freedoms of citizens, which represents a violation of the principle of the rule of law, which is the basis of governance in the state: [Article (34) of the Constitution stipulates that: "Personal freedom is a natural right, and it is inviolable." Article (35) of the Constitution also stipulates that: "Except in the case of flagrante delicto, no one may be arrested, searched, imprisoned, prevented from movement or restricted in any way except by a reasoned judicial order necessitated by the investigation." Accordingly, the provision in Clause (1) of Article (3) of Presidential Decree No. 162 of 1958 provides for the license to arrest, arrest and search persons and places without a reasoned judicial warrant that has wasted the personal freedoms of citizens and violated the freedom of their homes, which represents a violation of the principle of the rule of law, which is the basis of governance in the state.

Whereas, it does not affect the above, to say that the emergency law deals with exceptional situations related to confronting dangerous vows that threaten national interests with what may affect the stability of the state or expose its security and safety to imminent risks and that the state of emergency, given its duration and the nature of the risks associated with it, is sometimes not suitable for the measures taken by the state in the usual situations, as the emergency law authorized by the Constitution may not be used as a pretext to waste, violate and release its provisions, as the emergency law - whatever its justifications - remains in its nature as a

(11) See the judgment of the Administrative Court in Case No. 11415 of 54 BC issued at the session of December 29, 2009.

legislative act that must abide by all the provisions of the Constitution, foremost of which is safeguarding the rights and freedoms of citizens

Whereas, whenever the foregoing, the provisions of Clause (1) of Article (3) of Decree-Law No. 162 of 1958 of authorizing the arrest, detention and search of persons and places without being bound by the provisions of the Code of Criminal Procedure, violate the provisions of Articles (34, 35, 39, 81) of the Constitution][12].

Second: The Origin of the Patent

The presumption of innocence is a fundamental principle, and every individual has the right to enjoy their freedom and all rights established by law. Accordingly, the state must respect these freedoms and rights. How, then, can the state, deviating from this general principle, interfere with an individual's freedom based on its right to impose punishment? To safeguard these freedoms and rights, the state must entrust the establishment of its right to punish to an independent body—the judiciary. For the matter to be brought before the judiciary for an irrevocable ruling, specific procedures must be followed, forming what is known as "criminal litigation." In such litigation, the state aims to collect evidence regarding the crime's occurrence, attribute it to the accused, determine their responsibility, and impose an appropriate punishment.

It is established that criminal litigation does not aim to affirm the state's right to punish except after ensuring all guarantees that protect the accused's individual freedom. While the state, through its various authorities, undoubtedly has the power to impose its right to punish an accused individual using all means, the principle of legality that governs the legal state obliges its legislative, executive, and judicial bodies to respect the general rules defined by law to safeguard individual freedoms and societal life.

The presumption of innocence of the accused necessitates treating them accordingly at all stages of the criminal case, including the preliminary inquiry stage before the formal accusation arises. This presumption applies regardless of the seriousness of the crime or how it was committed. The legal presumption indicating the accused's innocence exists independently of the type of crime or the nature of the measures taken to uncover the truth and affirm the state's authority to punish.

It is evident that even under wartime powers, no person may be sentenced to death or have their freedom restricted without confronting the accusations against them and undergoing a trial resulting in a conviction based on solid evidence. Examining constitutional texts further reveals two types of procedures: civil and military. Military procedures are intended to address emergencies or wartime situations, often referred to as martial law.

Martial law and other exceptional laws must not contradict the provisions and rules established by constitutions regarding the principles under discussion.

([12]) Supreme Constitutional Court, Case No. 17 of 15 S issued in the session of June 2, 2013, date of publication June 3, 2013.

Looking at the provisions in criminal laws addressing these matters, we find that they provide for the protection of human rights. The Penal Code specifically prohibits public authorities from violating citizens' personal freedoms through arbitrary arrests, unlawful detention, trespassing on private homes, infringing upon the confidentiality of correspondence, or breaching professional secrets. In this respect, there is a clear intersection between the Penal Code, which adheres to the legality of crimes and punishments, and the Code of Criminal Procedure, which adheres to procedural legality. The Penal Code protects fundamental human rights by threatening punishment for any violation thereof, reflecting its alignment with the public rights guaranteed by the Constitution. Meanwhile, the Code of Criminal Procedure must strike a balance between the state's right to obtain evidence of guilt and the accused's right to prove their innocence. This is referred to as the "equality of arms" (Egalité des armes), or in other words, the provision of essential elements for a fair trial to help the accused defend themselves. This underscores the obligation of criminal procedures to respect the personal freedom guaranteed by the Constitution, based on the presumption of innocence.

Disputes may not arise over the rights of the accused but rather over the limitations imposed on these rights in the public interest. There is no argument that exceptional circumstances may justify restricting these rights compared to normal conditions, but only to the necessary extent.

According to the principle of legality that governs the legal state, the legislator must ensure a sufficient balance between the rights of the state's representative in prosecution (the Public Prosecution) and the rights of the accused, guaranteeing the latter's freedom, rights, and human dignity. Respecting this principle is essential and indispensable for achieving a fair criminal trial. Thus, the Code of Criminal Procedure must define the limits within which public authorities may interfere with individual freedoms to achieve social justice. This code is considered a "code of the honorable" because it establishes guarantees that protect individual freedoms against control and arbitrariness.

The direction of criminal policy toward protecting society must never reach the point of infringing upon the rights and guarantees of the accused. There can be no conflict between the requirements of social protection and those of human protection. Depriving a citizen of their human rights effectively strips them of the means necessary to assert their identity and develop their personality, hindering their ability to adapt to life in society. It should be noted that the protection of human rights is not viewed merely as a matter of natural rights but rests on two foundations:

1. The protection of human rights represents a social value integrated into the collective consciousness of the members of society, and this collective consciousness must be respected to preserve social integrity.
2. Respect for human rights is the means of ensuring an individual's genuine harmony with society, and such harmony can only be achieved if the means of achieving it align with the traditions and principles of society.

The presumption of innocence is a principle recognized by all legal systems. While society has an interest in punishing criminals, it cannot infringe upon the freedoms of innocent individuals. Society must defend and safeguard these freedoms until irrefutable evidence of a crime is established. Only then does any infringement upon freedom become legitimate as a form of punishment prescribed by law. The freedom of the innocent cannot be diminished, as it is a fundamental human right protected by the Universal Declaration of Human Rights. The presumption of innocence is the default, and guilt is the exception. Any infringement upon freedom must follow a conviction and the rebuttal of innocence through evidence of guilt.

This principle leads to several consequences, including the burden of proof resting on the prosecution and the interpretation of any doubt in favor of the accused. Protecting this principle requires specific guarantees to ensure its respect and reinforcement so that it does not become a mere evidentiary presumption devoid of positive content that ensures human freedom.

An individual fully enjoys their freedom until a conviction is established, and this requires being surrounded by guarantees that act as a barrier against the abuse of power by legislators or state authorities in procedures affecting individual freedoms. All measures taken to defend society and protect state interests must not extend beyond the necessary scope. These measures must not violate a fundamental principle of the legal system—the presumption of innocence—until guilt is established.

This principle necessitates treating the accused as innocent as long as their guilt has not been proven and confirmed by a criminal judgment. Such treatment of innocence can only be ensured through guarantees that safeguard its application. In light of these guarantees, state authorities do not act merely as instruments of condemnation or agencies for prosecution but transform into instruments of criminal social justice tasked with ensuring and protecting freedoms.

All guarantees established by law to protect personal freedom aim to uphold this right in the face of public authority, serving as a living expression of the law's power to resist abuses of public authority and affirming the rule of law.

The presumption of innocence requires surrounding the individual with critical guarantees when their freedom is at stake. These guarantees ensure that any infringement upon freedom is restricted to the narrowest scope, rendering such infringement an exception. These restrictions fall into two categories:

1. Substantive: related to the objective reasons for infringing upon freedom.
2. Procedural: related to the essential forms in which all procedures affecting freedom are carried out.

As for the substantive reasons, they all revert to a single justification for deviating from the presumption of innocence: the presence of strong indications that cast doubt on this innocence. Arresting and searching a person or their residence is not legally permissible unless sufficient evidence exists accusing the individual of committing a crime, thereby challenging the general

presumption of their innocence. This necessitates that such actions may only be taken to the extent required to uncover the truth.

As for the essential procedural forms required by law when infringing upon freedoms, the law mandates these forms as guarantees for the accused, balancing the state's right to punishment with the accused's right to freedom.

Procedural formality takes two types:

1. Fixed formality: This includes written documentation, such as dates, signatures, and the justification for orders to search residences or monitor correspondence and communications.
2. Dynamic formality: This pertains to specific conditions under which procedural actions must occur. It may involve particular timeframes within which procedural actions must be conducted, such as pretrial detention, or specific occurrences during procedural actions, such as the presence of the accused during searches and all investigative procedures.

The principle that "the accused is presumed innocent" refers to a temporary and ambiguous state experienced by the accused before their innocence from the allegations is confirmed and before their guilt is established. This principle is a fundamental tenet of the democratic system of criminal procedure and a prerequisite for a fair trial. The House of Lords has described it as a golden thread woven into the fabric of criminal law[13].

Regardless of the differences in how laws position the presumption of innocence within the hierarchical structure of the legal system, it is considered a human right and a fundamental right that enjoys constitutional protection. The Universal Declaration of Human Rights of 1948 states that every person charged with a crime is presumed innocent until proven guilty in a public trial where all guarantees necessary for their defense are provided (Article 11/1). This principle was reaffirmed by the International Covenant on Civil and Political Rights, unanimously adopted by the United Nations General Assembly in 1966 (Article 14), and by the European Convention on Human Rights and Fundamental Freedoms of 1950 (Article 6). It was also affirmed in the Draft Charter on Human and Peoples' Rights in the Arab World, prepared by the Arab Experts' Conference held at the International Institute of Higher Studies in Criminal Sciences in Syracuse in December 1985, which stipulated in Article 5/2 that the accused is presumed innocent until proven guilty by a judicial decision issued by a competent court.

This principle serves as a fundamental guarantee of the personal freedom of the accused. It entails that any individual accused of a crime, regardless of its severity, must be treated as innocent until their guilt is confirmed by a final judicial ruling. The principle was affirmed in the Egyptian

(13) J. Spencer، "Le droit anglais" Revue International de droit pénal، 1992 (vol.1 et 2) " La prevue en procédure pénal comprée، p. 83 et 90..

Constitution of 2014 (Article 96/1), the Tunisian Constitution (Article 12), the Syrian Constitution (Article 10/1), and the Libyan Constitution (Article 15).

This principle aligns with the principles of Islamic Sharia, as evidenced by the Hadith: "Avoid imposing legal punishments on Muslims as much as you can. If there is a way out for a Muslim, let them go free, for it is better for the imam to err in pardoning than to err in punishment."

The presumption of innocence is a cornerstone of constitutional legality in the Code of Criminal Procedure and corresponds with the foundational principle of constitutional legality in the Penal Code—namely, the legality of crimes and punishments. The application of the rule "no crime and no punishment except by a legal provision" necessarily implies another rule: the presumption of innocence of the accused until their guilt is proven according to the law. Commentators on the European Convention on Human Rights have explicitly noted that the true meaning of the principle of "the legality of crimes and punishments" lies in ensuring the presumption of innocence for every accused person [14].

Furthermore, the conference held by the International Commission of Jurists in New Delhi in 1959 affirmed that the application of the principle of legality entails the acknowledgment of the rule that the accused is presumed innocent until proven guilty[15].

This is the meaning expressed by the Egyptian Court of Cassation in saying: [Justice does not harm the impunity of a criminal as much as it harms the violations of people's freedoms and their unjust arrest] [16].

Basic procedural guarantees must also be ensured at all stages of proceedings, such as the presumption of innocence, the right to be informed of the charges, the right to remain silent, the right to legal counsel, the right to have a parent or guardian present, the right to confront and cross-examine witnesses, and the right to appeal to a higher authority.

Some have argued that "the presumption of innocence" is a simple legal presumption. A presumption is the inference of an unknown from a known. The known is that the default state of things is permissibility unless otherwise determined by a judicial ruling and a legal provision

(14) KAREL VASAK، La convention Européenne droits de l'homme، Paris 1964، p. 48-49..

(15) Vasak، op. p. 18..

(16) Appeal No. 50968 of 85 S issued at the session of February 24, 2018 (unpublished), Appeal No. 32432 of 85 S issued at the session of February 11, 2017 (unpublished), Appeal No. 29959 of 84 S issued at the session of March 12, 2016 (unpublished), Appeal No. 23705 of 84 S issued at the session of March 8, 2016 (unpublished), Appeal No. 6442 of 82 S issued at the session of April 4, 2013 and published in the book of the Technical Office No. 64, page No. 458, rule No. 60, Appeal No. 5232 of 82 S issued at the hearing of January 13, 2013 (unpublished), Appeal No. 4662 of 80 S issued at the hearing of November 19, 2011 (unpublished), Appeal No. 7290 of 79 S issued at the hearing of July 7, 2011 (unpublished), Appeal No. 5012 of 79 S issued at the hearing of May 4, 2011 (unpublished), Appeal No. 8583 of 80 S issued at the hearing of March 27, 2011 (unpublished), Appeal No. 45353 of 73 S issued at the hearing of January 24, 2011 For the year 2011 and published in the Technical Office Letter No. 62 Page No. 54 Rule No. 9, Appeal No. 6959 of 80 S issued at the session of 19 October 2010 (unpublished)... and others.

confirming the occurrence of the crime and the justification for punishment. The unknown inferred from this principle is the innocence of a person until their guilt is proven by a judicial ruling[17].

However, the Supreme Constitutional Court concluded that the presumption of innocence is neither a legal presumption nor a form thereof. This is because a legal presumption is based on shifting the burden of proof from its original subject—represented by the fact that is the source of the claimed right—to another fact closely related to and connected with it. This alternative fact is considered, by law, as proof of the original fact. This is not the case for the presumption of innocence enshrined in the Constitution. The Constitution has not substituted one fact for another or established a replacement.

Instead, the presumption of innocence is founded on the innate nature of humanity. A person is born free, untainted by sin or wrongdoing, and it is presumed throughout their life that the principle of innocence remains inherent within them, accompanying them in all their actions. This presumption persists until a court of law, through a decisive and irrevocable judgment, overturns it based on evidence presented by the prosecution. Such evidence must substantiate the alleged crime in all its elements and for every necessary fact required to establish it[18].

The Egyptian Constitution of 2014 affirmed this principle, Article 96 of which stipulates that: "The accused is innocent until proven guilty in a fair legal trial, in which he is guaranteed the guarantees of self-defense." This principle has been recognized by both the Anglo-Saxon legal system and the Latin legal system [19].

The presumption of innocence cannot be overturned merely by the evidentiary proof presented by the prosecution or through the procedures conducted by the criminal judge, who plays an active role in establishing the truth. This presumption remains intact despite the available evidence submitted to refute it until a final judicial ruling is issued declaring the accused guilty. The law considers a final judicial ruling to be the definitive acknowledgment of truth, immune to dispute.

Through such a ruling, the presumption of innocence is nullified, and an irrefutable presumption is established regarding the validity of the judgment. This irrefutable presumption alone can undermine the presumption of innocence of the accused if the final ruling declares guilt. Therefore, the presumption of innocence cannot be overturned by other evidentiary presumptions, whether they are legal—simple or absolute—or judicial.

This general principle applies equally to the proof of a crime as well as the proof of justifications for the act or exemptions from liability. The conviction of the accused depends on the absence of justification and the non-existence of exculpatory circumstances. The prosecution, in its role of

(17) ESSAID، La presumption d'innocence، Thése، op، cit.، pp. 73 et 74..

(18) See: Supreme Constitutional Court, Case No. 25 of 16 S. Issued at the session of July 3, 1995, the date of publication July 20, 1995, and published in the first part of the book of the Technical Office No. 7, page No. 45, rule No. 2.

(19) See a report on Common law countries on European countries in the International Journal of Penal Law for the year 64 (1992), pp. 33, 55.

proof, must present evidence that overturns the presumption of innocence, which can only be achieved through a final judicial ruling affirming the occurrence of the crime, its attribution to the accused, the establishment of their liability, and the absence of any justification[20].

Since the presumption of innocence is merely an affirmation of a broader principle—the freedom of the accused—it necessitates the protection of all rights and freedoms. Without such protections, the presumption of innocence loses its meaning. Freedom cannot exist amidst violations of the rights and freedoms that collectively form the integrated entity of human dignity. The presumption of innocence becomes meaningless if the trial is conducted through procedures that fail to respect the rights of the defense.

This understanding was emphasized in the recommendations of the preliminary session of the Fifteenth International Congress of Penal Law, held in Spain in May 1992, which discussed reforms in criminal procedures and the protection of human rights. This principle was also clearly expressed in Article 96/1 of the Egyptian Constitution, which stipulates that the conviction of the accused must occur through a legal trial that ensures guarantees for the defense.

This means that a "legal" trial—i.e., a fair trial that respects all the rights of the accused—is a necessary condition for establishing guilt, which negates the presumption of innocence. Consequently, the presumption of innocence is not nullified merely by referring the accused to trial; its nullification depends on the issuance of a final judgment of conviction [21].

Since the presumption of innocence is not realized without a judicial ruling, it is impermissible to impose alternative penalties before bringing the case before a court, such as requiring the payment of a fine prior to a conviction, obligating the payment of procedural costs before trial, or imposing administrative penalties without establishing guilt according to the rules prescribed in disciplinary law.

Technically, only those accused of a crime benefit from the presumption of innocence. However, as the European judiciary eventually recognized, the presumption of innocence can also be invoked by anyone accused by a state authority. Thus, the presumption of innocence is not confined to criminal proceedings initiated during a criminal case but also extends to preliminary investigation procedures, disciplinary trial procedures, and beyond. For example, the Human Rights Committee in Strasbourg affirmed as early as 1967 that it is inadmissible for a Minister of the Interior, in a press conference following a murder, to publicly declare that a specific named individual incited the crime. Such an announcement constitutes a violation of the presumption of innocence.

On another note, a final conviction alone is sufficient to nullify the presumption of innocence. The severity or type of punishment is unrelated to this presumption. After establishing guilt, the judge may take into account elements of the offender's character to determine the punishment, which

([20]) See the recommendation of the Toled Symposium in Spain in May 1992 in preparation for the 15th International Conference on Penal Law to be held in Brazil in 1994.

([21]) Article 96 of the amended Constitution of the Arab Republic of Egypt of 2014.

are factors unsuitable for proving guilt initially. For instance, the defendant's bad reputation or prior offenses cannot serve as evidence of guilt for the current crime, though they may be relevant in determining the penalty. The European Commission of Human Rights, tasked with applying the European Convention on Human Rights, has stated that the presumption of innocence—legally speaking—does not preclude the imposition of a harsher penalty on appeal. Similarly, the Supreme Constitutional Court of Egypt affirmed that the presumption of innocence is a fundamental principle concerning the proof of criminal charges, not the type of punishment prescribed for them.

Nevertheless, it has been observed that if the presumption of innocence were to be strictly respected in a literal sense, initiating criminal proceedings would become practically impossible. Therefore, the practical and realistic application of this principle depends on the guarantees of rights and freedoms surrounding its implementation [22].

The principle of innocence means that the accused must be treated as innocent people are treated. Therefore, the principle is that he enjoys all the rights and freedoms guaranteed by the Constitution and regulated by law. However, since the provisions of the Constitution are integrated and interrelated, the Constitution also guarantees personal freedom and all human rights. It also guarantees criminalization and punishment (Article 95 of the Constitution) and guarantees the prosecution of crimes when it stipulates that no punishment shall be imposed except by a judicial ruling (Article 95 of the Constitution). Constitutional legitimacy in criminal proceedings requires a balance between respecting fundamental rights and freedoms and ensuring procedures are taken towards the accused [23].

The two matters must be reconciled and respected together without compromising one at the expense of the other. This reconciliation is carried out by relying on the origin of innocence in determining the legal framework within which the accused's exercise of his personal freedom and other human rights is regulated in the light of the requirements of criminal litigation. This legal framework is in the form of guarantees that ensure the protection of personal freedom and other human rights when taking any criminal action against the accused.

The law regulates the use of the personal freedom of the accused within the criminal litigation in the light of the objectives of the criminal litigation. This legal regulation must not go beyond the principle of innocence, by surrounding the procedures permitted by the law with certain guarantees that ensure the protection of the rights and freedoms of the accused and that he exercises as an innocent.

Any criminal procedure permitted by law must be limited by these guarantees in order to prevent danger in its initiation. Otherwise, it is contrary to the principle of innocence and the criminal procedure stipulated by law without being surrounded by these guarantees, it is an arbitrary attack

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([22]) Stefan Trechsel، The protection of human rights in criminal.

Procedures، Rev. int droit penal، 1978، p. 554 et 555..

([23]) Article 95 of the amended Constitution of the Arab Republic of Egypt of 2014.

and contrary to the principle of innocence, which is considered an attack on constitutional legitimacy.

Criminal procedures should not be taken away from constitutional legitimacy. This legitimacy is based on the principle of innocence, and this principle, as we have shown, determines the scope of any criminal procedure through its restrictive guarantees. In this regard, the convergence between the Penal Code is achieved when it adheres to the legitimacy of crimes and penalties, and the Code of Procedure when it adheres to the principle of innocence. The first of the crimes and penalties it decides is adhering to respect for the public freedoms guaranteed by the Constitution. It is not permissible to criminalize any act that is considered a use of one of these freedoms, such as freedom of conscience, freedom of assembly, freedom of association and trade unions, and freedom of the press. Similarly, the Code of Criminal Procedure in the procedures it decides for criminal litigation is committed to respect the guarantees guaranteed by the Constitution for rights and freedoms, based on the principle of innocence. It is not permissible to initiate any criminal procedure unless it is surrounded by these guarantees.

The principle of innocence as one of the rules governing criminal procedures requires that the accused not be described by any description of the conviction during the course of the criminal litigation. This description does not change except when the conviction is issued and the fair trial is subject to the principle of confrontation, so it is possible for the accused to confront the evidence attributed to him and direct his defense towards it at this stage in addition to the origin of the innocence. The accused is not obligated to prove his innocence, but the Public Prosecution, as a representative of the accusation, must present this evidence.

The origin of innocence as a rule of the judgment requires that the court interprets the suspicion in the interest of the accused and does not convict him except on the basis of complete certainty and not on the mere possibility. This rule goes to the court alone, unlike the origin of innocence as a rule of criminal procedure, it addresses each of the parties that engage in other stages of criminal litigation (including the court).

Third: The right to bodily integrity - the right to life

The Constitution, within the framework of its principles and provisions, organizes individuals' rights, freedoms, and duties under the rule of law. At the pinnacle of these rights and personal freedoms is the human right to life, which is considered a natural right inherent to the human person. Therefore, the Constitution prohibits any infringement upon this right—without justification—even if an individual's freedom is restricted by judicial rulings. It also mandates treating prisoners in a manner that preserves their dignity and protects them from physical and psychological harm. There is no doubt that these constitutional guarantees align in their lofty purpose with international agreements and penal legislation, which are founded on the philosophy of rehabilitating prisoners to reform their behavior. At the same time, they ensure the protection

of the prisoner's physical well-being, maintaining a sense of loyalty to the homeland and legal security for individuals, even those who have violated the law by committing crimes [24].

Article 55 of the Constitution guarantees the safety of the body in the face of criminal proceedings, stipulating that: "Every person who is either arrested, detained, or his freedom is restricted shall be treated in a manner that maintains his dignity. He/she may not be tortured, intimidated, coerced, or physically or morally harmed; and may not be seized or detained except in places designated for that purpose, which shall be adequate on human and health levels. The State shall cater for the needs of people with disability.

Violating any of the aforementioned is a crime punished by Law.

An accused has the right to remain silent. Every statement proved to be made by a detainee under any of the foregoing actions, or threat thereof, shall be disregarded and not be relied upon. "This right presupposes that the accused may not be tortured [25].

This principle was confirmed by the Universal Declaration of Human Rights of 1948, which prohibited the torture of the accused (Article 5), and this right represents one of the basic values in a democratic society, and it stems from the duty to respect human dignity "dignité humaine" and three results are derived from this right, namely: the inadmissibility of subjecting the accused to torture, the inadmissibility of inhuman treatment, and the inadmissibility of subjecting him to inhuman punishments, and these results have been supported on the international scale as follows:

A. It is established that the accused shall not be subjected to torture by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly of the United Nations on 10 December 1984.
   The torture of the accused is subject to multiple forms, some of which are considered physical coercion, and some of which are considered moral coercion, and the intercourse between them is the pain or physical, psychological, or mental suffering inflicted on the accused as a result of the use of one of the means of torture.
   Torture is achieved by deliberately inhumane treatment that leads to serious and severe pain in order to obtain confessions, statements or information [26].
   This right is based on the assertion of the freedom of the accused to express his statements away from coercion that affects the integrity of his body. This research raises the problem of using modern scientific means in order to coerce the accused to tell the truth. The face we are looking at is related to the legality of using them in interrogating the accused, which affects the right of the accused to express his statements freely, which affects his right to

([24]) See: Judgement of the Administrative Court No. 4884 of 62 K issued on 13/1/2009, page No. 316.

([25]) Article 55 of the amended Constitution of the Arab Republic of Egypt for the year 2014.

([26]) See the judgment of the European Court of Human Rights of 18 January 1978, CED11, 18 Janvier 1978, Irlande c. Royaume Unie، Droit pénal européen CJ. Pradel et G. Corslens، p. 305..

defense. Jurisprudence and the judiciary in most countries of the world have settled on refusing to use scientific means to obtain the accused's confession[27].

B. A person shall not be treated inhumanely or dehumanizingly during the trial. This is confirmed by Article 7 of the International Covenant on Civil and Political Rights [28].

C. The convict may not be subjected to inhumane and degrading punishments, which depends on a number of factors, including the nature and content of the punishment and how it is carried out. This is confirmed by Article 5 of the Universal Declaration of Human Rights in its stipulation that a person may not be subjected to cruel, inhuman or degrading punishments. These harsh punishments are also defective in that they lose the requirement of necessity and proportionality in an exaggerated and obvious manner, which makes them unconstitutional [29].

In light of the supremacy of human rights, many international declarations have been issued to guarantee those rights, including the Universal Declaration of Human Rights issued in 1948, which prohibited the torture of the accused in Article 5, and this is confirmed by the International Convention on Civil and Political Rights in its article 7 and stipulated in many constitutions, including the Egyptian Constitution in its article 52, which stipulates that: "Torture in all its forms and manifestations is a crime that does not fall under the statute of limitations" [30].

Article 54 also stipulates that: "Anyone who is arrested, imprisoned, or whose freedom is restricted must be treated in a manner that preserves his dignity, and it is not permissible to torture, intimidate, coerce, or physically or morally harm him, and his detention or imprisonment shall only be in places designated for that purpose as humanly appropriate and healthy, and the state is obligated to provide means of access to persons with disabilities, and violating any of this is a crime that the perpetrator shall be punished in accordance with the law" [31].

The Court of Cassation also ruled that: [A confession must not be relied upon, even if it is true, when it is the result of coercion, whatever its destiny. The court must examine the link between

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([27]) Merle et Vitu، Traité de droit criminal T. II (procédure pénale)، 1979، p. 164 et 165.

Garven ; Le probléme des nouvelles techniques d'investigation au procés pénale، Rev، Sc. Crim.، 1950، p. 313 et S.

If it is true to resort to these means for therapeutic purposes, it is not permissible to use them to reveal the truth in criminal litigation. Conscience does not care because it treats man as if he were the subject of experimentation in a laboratory and revives the meaning of torture by robbing man of his feeling and destroying his conscious will.

([28]) The European Court of Human Rights has defined inhuman treatment as behavior that causes organic or mental pain of a certain gravity without reaching the degree of severity of torture, for example, the use of the means used by the British army in interrogation in Northern Ireland, namely prolonged standing, head covering, continuous whistling inside the cell, sun deprivation, and deprivation or severe reduction of food and drink for several days.

See Cugges Lebreton, Libertés publiques et draits de l 'homme, 1995, p. 276..

([29]) See the ruling of the Supreme Constitutional Court on January 4, 1997 in Case No. 2 of the 15th Constitutional Judicial Year, Official Gazette No. 3 of January 16, 1997, and see in this regard the French Constitutional Council on May 30, 2000 Resolution No. 433.

([30]) Article 52 of the amended Constitution of the Arab Republic of Egypt of 2014.

([31]) Article 54 of the amended Constitution of the Arab Republic of Egypt for the year 2014.

the confession of the defendants and the injuries that the defendants said they had received to coerce them and the denial that they had made a reasonable inference if they saw fit to rely on the evidence derived from it. The contested judgment had raised the plea of nullity of the confession as mentioned above in a way that does not justify responding to it, as the failure of the investigating prosecutor to notice the existence of visible injuries to the defendants does not negate the existence of injuries to them, and the presence of lawyers with the defendants in an investigation conducted by the Public Prosecution does not negate the occurrence of torture[32] .

It ruled that: [It is decided under the meaning of Article 42 of the Constitution and the last paragraph of Article 302 of the Code of Criminal Procedure that a reliable confession must be optional, and it is not considered so even if it is true. If it is issued under the weight of coercion or threat of coercion, whatever its fate and the principle is that the court, if it deems it necessary to rely on the evidence derived from the confession, to examine the link between it and the coercion said to have taken place and to deny the existence of this coercion in a reasonable inference. The statement of the contested judgment was a justification for its reliance on the evidence derived from the appellants' confession to the investigation of the Public Prosecution, which would not lead to the waste of the appellant's nullity of this confession because it was issued under duress because of the confiscation it represents for the defense of the appellants before it is resolved. It is not correct in the logic of reason and intuition to reject the judgment on the nullity of the confession before a body of investigations. It was the result of duress by reassuring him of this confession because it was obtained before that body and because of the failure to mention whoever attributed the confession before it that it was forced on him as long as he disputes the validity of that confession before that body[33].

It also ruled that: [It is established that the law did not define physical torture and did not require a certain degree of gravity and need not lead to injury to the victim and it is up to the discretion of the trial court to deduce it from the circumstances of the case[34].

It also ruled in another judgment in the same operative part that: [The law did not know the meaning of physical torture and did not require it to have a certain degree of gravity, and it is up to the discretion of the trial court to deduce it from the circumstances of the case] [35].

It also ruled: [The law did not require that the elements of the crime of torture be available to a defendant with the intention of forcing him to confess stipulated in Article 126 of the Penal Code, that the torture had led to the injury of the victim, just to put his hands behind his back and hang

(32) Appeal No. 758 of 50 S issued at the hearing of October 15, 1980 and published in the first part of the book of the Technical Office No. 31 page No. 890 rule No. 172.

(33) Appeal No. 23449 of 71 S issued at the session of February 5, 2002 and published in the book of the Technical Office No. 53 page No. 224 rule No. 41.

(34) Appeal No. 15220 of 75 S issued on December 28, 2005 and published in the Technical Office letter No. 56 page No. 844 rule No. 114.

(35) Appeal No. 1314 of 36 S issued on November 28, 1966 and published in the third part of the Technical Office's letter No. 17 page No. 1161 rule No. 219.

him in a pinnacle with his head hanging down, which was proven by the judgment against the appellant from the statements of the victim's wife is considered torture, even if it did not result in injuries[36] .

It also ruled that: [Since the causal relationship in the criminal articles is a material relationship that begins with the act committed by the perpetrator and is morally related to what he must expect from the usual results of his act if he deliberately comes to it, and this relationship is an objective issue that the trial judge is unique to assess and when he decides on it as evidence or denial, the Court of Cassation has no control over him as long as he has based his judiciary on reasons that lead to what he concluded, and if The judgment has proven against the appellant that there is a causal relationship between the acts of torture committed by him and the result of these acts, which is the death of the victim in saying: (Since the court considers that there is a causal relationship between the act of torture committed by the accused against the victim and the result of this torture, which is the death of the victim by drowning, the provision of the second paragraph of Article 126 of the Penal Code is based and applies to the facts of the case, as the act of torture committed by the accused against the victim since the beginning of the incidents of torture by beating and dropping into contaminated water with the threat of being thrown into the sea and what led to it with The continuation of the assault in that form on a small boy and pushing him to the edge of the water pavement in an attempt to lower him again. The victim was previously harmed by the previous one, all of which entails that the victim tries to get rid of the grip of the accused to attract him. It also entails the accused pushing him in an attempt to lower the victim into the water or even threatening him while he is unsure of the victim's proficiency to swim. All of this took place in a spot on the side of the pavement that was narrowed by the presence of oil pipes extending along it. This sequence, which ended in the victim falling into the sea water and is related to the belt of the accused and then drowning and death, is considered normal and familiar in life and current with the usual turn of things and did not involve an abnormal factor unlike the cosmic year and therefore does not accept or hear from the accused that he did not expect the last result, which is the death of the victim by drowning), which is a palatable pamphlet that leads to the outcome of the verdict and agrees with the correct law, what the appellant means in this regard is not correct, in addition to the absence of his interest in this immunity because the penalty imposed by the verdict is imprisonment for five years Years falling within the scope of the penalty prescribed for the crime of torturing a defendant to force him to confess to the death of the victim stipulated in the first paragraph of Article 126 of the Penal Code] [37].

(36) Appeal No. 3351 of 56 S issued at the session of November 5, 1986 and published in the first part of the book of the Technical Office No. 37 page No. 827 rule No. 160.

(37) Appeal No. 2460 of 49 S issued at the session of November 13, 1980 and published in the first part of the book of the Technical Office No. 31 page No. 979 rule No. 190.

Part One: Police Functions and Principles Governing Them

Chapter 1: Basic Tasks of the Police

The political system in Egypt is based on political and party pluralism, the peaceful transfer of power, the separation and balance of powers, the concomitance of responsibility with power, and respect for human rights and freedoms [38].

The Constitution, pursuant to Article 59, is keen to make safe life a right for every human being and obliges the state to provide security and tranquility to its citizens, and to every resident on its territory, so each state has the responsibility to maintain security, order and stability within its territory, per the approach and method it deems appropriate for it [39].

The responsibility of the State in this regard includes the duty to respect and protect human rights, thus ensuring that they are not violated for all people without discrimination.

The state assigns to the police the responsibility of maintaining security and order, confronting crimes, and serving and assisting members of society, which are the basic tasks entrusted to the police in most countries of the world, so the police guarantees citizens reassurance and security, and ensures the maintenance of public order and morals, and adheres to the duties imposed on them by the constitution and the law, and respects human rights and fundamental freedoms [40].

Egyptian law defines the police and defines its tasks and duties in Article 1 of the Police Authority Law as follows: "The police is a regular civil body in the Ministry of Interior that performs its functions and exercises its competence under the chairmanship and leadership of the Minister of Interior, who issues decisions regulating all its affairs and work systems..." [41].

The Police Authority is competent to maintain order, public security and morals, and to protect lives, symptoms and funds, in particular to prevent and control crimes. It is also competent to ensure the tranquility and security of citizens in all fields and to implement the duties imposed on it by laws and regulations. Article 3 of the Police Authority Law stipulates that: "The Police Authority is competent to maintain order, public security and morals, and to protect lives, symptoms and funds, in particular to prevent and control crimes. It is also competent to ensure the tranquility and security of citizens in all fields, and to implement the duties imposed on it by laws and regulations" [42].

([38]) Article 5 of the amended Constitution of the Arab Republic of Egypt for the year 2014.

([39]) Article 59 of the amended Constitution of the Arab Republic of Egypt for the year 2014 and see: Judgement of the Administrative Court (First Circuit) No. 55989 of 68 S issued at the session of September 11, 2017 (unpublished).

([40]) Article 206 of the amended Constitution of the Arab Republic of Egypt of 2014.

([41]) Article 1 of Law No. 109 of 1971 regarding the Police Authority, as amended by Law No. 199 of 2014.

([42]) Article 3 of the Police Authority Law.

The police is the guardian of the security of the homeland and the citizen in order to ensure safety and tranquility and achieve stability and prosperity. The Ministry of Interior, as the police body, is obligated to implement its constitutionally and legislatively prescribed role and perform it in the service of the people by preserving their lives, protecting their lives, symptoms, money and property from any tampering or aggression, and ensuring the maintenance of order and public morals, all within the framework of this ministry - like all state authorities - being subject to the law and respecting its rules and provisions and the duties and responsibilities imposed on it[43].

The officer shall abide by and implement the provisions of this law and shall also:

1. Respect for the Constitution, the law, and human rights standards in the use of power and force, and adherence to standards of integrity, transparency, and procedural legitimacy
2. Protecting rights and freedoms, preserving human dignity and respecting the democratic values of society in accordance with the Constitution and the law
3. Providing the highest levels of security service and adopting creative ideas to serve citizens and their participation in solving societal problems that may lead to crimes
4. Preserving the values of society, respecting its customs, traditions, cultures and customs, and equal provision of security service for all without discrimination
5. Guaranteeing constitutional and legal rights and human rights standards in dealing with defendants and suspects of crimes
6. To perform the work entrusted to him himself accurately and honestly and to allocate the official working time to perform the duties of his job, and he may be assigned to work outside the official working hours in addition to the appointed time if the interest of the work so requires.
7. Cooperate with his colleagues in performing the urgent duties necessary to ensure the progress of work and the implementation of public service
8. To execute the orders issued to him accurately and honestly, within the limits of the laws, regulations and systems in force, and each president bears the responsibility for the orders issued by him and is responsible for the proper functioning of the work within the limits of his competence
9. To maintain the dignity of his job, and to behave in a manner consistent with the respect due to it in accordance with the instructions and the prevailing custom of the police authority
10. To reside in the entity where his job is located, and it is not permissible for him to reside away from it except for necessary reasons approved by the head of the department

([43]) Administrative Judicial Court (First Circuit), Judgement No. 42103 of 58 Q issued at the session of March 13, 2007 (unpublished), Judgement No. 31340 of 58 Q issued at the session of March 13, 2007 (unpublished), Judgement No. 31339 of 58 Q issued at the session of January 16, 2007 (unpublished).

11. To show restraint in dealing with citizens and act in a balanced manner commensurate with the nature of different security situations [44].

Chapter 2: Key Principles Governing Police Work

Respect for international human rights law requires observance of a number of key principles that govern the state and its agencies, especially the police and security services, in carrying out their tasks in maintaining security and order and combating crime. These principles are the principle of legality, the principle of necessity, the principle of proportionality, and finally the principle of accountability, which we will address in the following sections, respectively.

The principle of legality means that all actions of the state and its institutions must be based on the law. All authorities and powers must be exercised in accordance with the procedures established by the law, by the individuals authorized by the law and no others, and within the times and deadlines specified by the law.

The legal state is the one that adheres in all aspects of its activity - whatever the nature of its powers - to legal rules that transcend it, and is itself a control of its actions and actions in their various forms, considering that the exercise of power is no longer a personal privilege for anyone, but it is carried out on behalf of the group and for its benefit. Therefore, the principle of the subordination of the state to the law, coupled with the principle of the legitimacy of authority, has become the basis on which the legal state is based [45].

It means that no human right shall be infringed except in the case of necessity, and to the extent necessary to maintain law and order in each individual case, noting that there are absolute human rights that may not be infringed under any circumstances and for any justification, such as the right to be presumed innocent, and the right not to be subjected to torture or enforced disappearance.

The rights and freedoms inherent in the person of the citizen are neither suspended nor derogated from, and no law regulating the exercise of rights and freedoms may restrict them in a way that affects their origin and essence [46].

This principle refers to ensuring proportionality between the measures taken against an individual, which inherently affect their human rights, and the importance of the social or security interest that the police or other security agencies aim to achieve. In all cases, the action taken must be reasonably proportional to the legal purpose intended; otherwise, it would constitute an abuse of power and a violation of human rights

([44]) Article 41 of the Police Authority Law amended by Law No. 64 of 2016.

([45]) See the ruling of the Supreme Constitutional Court, in Case No. 15 of 18 S, issued at the session of January 2, 1999, the date of publication on January 14, 1999, and published in the first part of the book of the Technical Office No. 9, page No. 133, rule No. 18.

([46]) Article 92 of the amended Constitution of the Arab Republic of Egypt for the year 2014.

This principle also implies the necessity of holding police officers, other security personnel, and law enforcement officials accountable and liable for any violations of human rights protected under international and national law. It is important to note that, in practice, the police often operate in highly complex situations, requiring them to strike a delicate balance between their responsibility to maintain security and order and prevent crimes and infractions, and their obligation under national and international law to respect and protect human rights. This balance necessitates that police officers, whether at the leadership or individual level, have broad and reasonable discretion to address different situations based on the specific circumstances of each case on the ground.

Given that police and security officers frequently face challenging and dangerous situations due to their daily interactions with criminals and lawbreakers, they must possess high ethical standards to ensure their actions comply with the law at all times and under all circumstances. Violating the law by those responsible for its enforcement ultimately undermines the credibility and trustworthiness of the state and its institutions in the eyes of its citizens, causing devastating harm to society as a whole.

Therefore, police officers in leadership positions must establish institutional ethics grounded in respect for the law and human rights, disseminate these values among police personnel, and adhere to them under all circumstances. In addition to the legal and ethical framework governing police work, orders and procedures must be entirely clear, leaving no loopholes for members of the force to evade accountability for breaking the law or violating human rights.

Part Two: Police Powers in Law Enforcement

Chapter 1: The Mission of the Police in Maintaining Security and Public Order

Besides the task of the police in the prevention, investigation and detection of crime, the police also perform the task of maintaining security and order, which is a sensitive and dangerous task that the police and other security agencies are responsible for carrying out. The responsibility to maintain security requires a careful balance between the duties of the police in maintaining order, and between the rights and interests of individuals. The police must adhere to national and international legal rules and standards in order for this balance to be successful and to carry out the task of maintaining security in the best possible way.

One of the serious powers conferred by national laws on the police and other security agencies charged with enforcing or enforcing the law is the power to use force. This power may sometimes amount to the use of firearms in certain circumstances. The general rule governing the use of force in accordance with international standards is that police personnel and other law enforcement officials may not use force and shoot except in cases of extreme necessity and within the limits necessary for the performance of their duty. This means that the use of force is exceptional and governed by the standards specified by international and national law [47].

The Code of Conduct for Law Enforcement Officials stresses that the use of force by law enforcement officials should be exceptional. Although it suggests that law enforcement officials may be authorized to use force that is reasonably necessary in order to avoid crimes or in carrying out or assisting in the lawful arrest of criminals or suspected criminals, it does not authorize the use of force beyond this limit.

The use of force by law enforcement officials shall normally be limited by national law in accordance with the principle of proportionality and it shall be understood that the principles of proportionality applicable at the national level shall be respected in the interpretation of this provision and in no case shall this provision be interpreted so as to permit the use of force disproportionate to the legitimate aim to be achieved.

The use of firearms is considered an extreme measure and every effort should be made to avoid the use of firearms, especially against children. In general, firearms should only be used when a person suspected of having committed an offence offers armed resistance or otherwise endangers the lives of others. Less extreme measures are insufficient to restrain or apprehend the suspect. In each case in which a firearm is fired, a report should be submitted to the competent authorities without delay.

([47]) Article 3 of the Code of Conduct Governing the Performance of Law Enforcement Officials, issued by the United Nations Resolution on February 5, 1980.

Unit 1: International standards for the use of force and firearms by the police

The use of force and firearms by the police or other law enforcement agencies is subject to the following international standards:

1. Firearms may not be used against individuals except in defense of oneself or others against an imminent threat of death or serious injury.
2. To prevent the commission of a serious crime involving a grave threat to life.
3. To arrest a person posing the dangers outlined in points 1 and 2 who resists the police or to prevent their escape.
4. Firearms may only be used when less violent methods and means fail to achieve lawful objectives.
5. Firearms intended to cause death may only be used deliberately when it is absolutely unavoidable to protect lives.

In addition to these restrictions outlined in Principle No. (9) of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials—a document issued by the United Nations—police personnel, in accordance with Principle No. (10), must identify themselves and issue a clear warning before resorting to the use of firearms unless such a warning would result in grave danger, or is inappropriate or ineffective. If a warning is issued, sufficient time must be given for the person(s) addressed to comply.

Of course, it is presumed that police personnel have received the necessary education and training in the use of firearms and that those authorized to fire when necessary possess the required qualities to enable them to react appropriately, even in stressful and dangerous situations.

As previously mentioned, the use of force or firearms to restore order and address public gatherings and demonstrations must adhere to the same basic principles applicable in other situations. It must be reiterated here that firearms are often not the appropriate means for dealing with angry crowds and may lead to disastrous consequences and a loss of control. The fundamental rule in this context is that the police must never fire indiscriminately at a crowd or group of people under any circumstances.

Unit 2: the use of force and firearms in Egyptian law

The Police Authority Law defines the permissibility of a police officer using force to perform their duty, the limits of such use, and the specific cases in which the use of firearms is allowed. It also

establishes the conditions for police officers using force, stipulating that the use of force must be necessary to perform their duty and that it must be the only means of fulfilling that duty [48].

The cases in which the Egyptian Police Authority Law permits the use of force and firearms are strictly limited to three scenarios outlined by the law:

1- Arresting:

- Any individual convicted of a felony or sentenced to imprisonment for more than three months if they resist or attempt to escape.
- Any individual accused of a felony, caught in the act of committing a misdemeanor warranting arrest, or against whom an arrest warrant has been issued, if they resist or attempt to escape.

2- Guarding prisoners: under the conditions and circumstances specified in the Prison Law.

3- Dispersing gatherings or demonstrations: involving five or more people if public security is endangered, provided that the demonstrators are warned to disperse. In such cases, the order to use firearms must be issued by a superior officer whose instructions must be obeyed [49].

Article 102 of the Police Authority Law provides a brief explanation of how police powers to use firearms should be exercised in these scenarios. It stipulates that in all three cases, the use of firearms must be the only means to achieve the stated objectives. The police officer must first issue a warning that they are about to use firearms before proceeding to fire.

The cases involving the use of force and firearms in prisons and detention centers are as follows:[50]

Section 1: The use of force and coercive means

It is permitted for supervisors and custodians assigned to guard inmates to use their firearms against inmates in the following cases:

1. Repel any attack or resistance accompanied by the use of force if they are unable to repel it by other means.
2. Preventing the escape of an inmate if it cannot be prevented by other means.[51]

(48) Article 102 of the Police Authority Law.

(49) Article 102 of the Police Authority Law.

(50) Article 102 of the Police Authority Law.

(51) Article 87 of the Law on the Organization of Correction and Community Rehabilitation Centers, as amended by Law No. 14 of 2022.

First: Cases of the use of force against inmates at rehabilitation centers

Within the framework of the Law Organizating Correction and Community Rehabilitation Centres and the Internal Regulations of Correction Centres, the security forces may use force against an inmate to an adequate extent and within the necessary limits in the following cases:

1. Self-defense;

2. Escapes;

3. Physical resistance by force;

4- Refrain from executing an order based on the law or the regulations of the Correction and Rehabilitation Center [52].

On the other hand, the Standard Minimum Rules for the Treatment of Prisoners and the Nelson Mandela Rules prohibit the use of force by prison staff in relation to prisoners, except in self-defense, in the face of attempts to escape, physical resistance by force, or passively refraining from carrying out an order based on law or regulation, and if they use force, they must do so to the minimum extent necessary, and they must immediately report the incident to the prison director.

Prison staff must be provided with special physical training to enable them to restrain prisoners with aggressive behavior, and the Nelson Mandela Rules prohibited employees who perform tasks that put them in direct contact with prisoners from being armed except in exceptional circumstances, and those rules also prohibited handing over a weapon to any employee unless he had been trained to use it [53].

The Code of Conduct for Law Enforcement Officials also prohibited law enforcement officials from using force except when absolutely necessary and within the limits necessary for the performance of their duty[54].

It is prohibited to subject a person whose liberty has been restricted to torture or other cruel, inhuman or degrading treatment or punishment. No circumstance whatsoever may be invoked as a justification)55(.

Second: Controls of the use of force with the inmate of the reform center

Before the security forces use force against inmates, verbal audible warnings must be issued to inmates by the director of the correction and rehabilitation center or the most senior officer

([52]) Article 81 bis of the Internal Regulations of Prisons, added by the decision of the Minister of Interior No. 345 of 2017.

([53]) Rule No. 54 of the Standard Minimum Rules for the Treatment of Prisoners, and Rule No. 82 of the Nelson Mandela Rules.

([54]) Article 3 of the Code of Conduct for Law Enforcement Officials.

([55]) Principle No. 6 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

present at the correction center of the need to abide by the systems and regulations of the correction center, and that in the event of non-compliance, the use of force will be resorted to.

It shall be taken into account that the use of force with inmates shall be as much as possible in the following order:

1. Use of water hoses;

2. Use of tear gas;

3. The use of plastic batons;

4- Shooting cartridges [56].

While within the framework of international conventions, employees of any juvenile detention institution are prohibited from carrying or using weapons [57].

Section 2: The use of firearms

Subsection 1: The use of firearms with the inmate of the rehabilitation center

First: Cases of the use of firearms

Supervisors and custodians assigned to guard inmates may use their firearms against inmates to repel any attack or any resistance accompanied by the use of force if they are unable to repel it by other means, or to prevent the escape of an inmate if it cannot be prevented by other means)[58](.

Second: Controls of the use of firearms

The approval of the Director of the Department of Correction and Rehabilitation Centers for the use of firearms must be obtained in advance, except in sudden cases where it is not possible to obtain such approval due to the rapid development of the situation. The directors of regions, directors of correction centers and heads of training centers may use them as required by the situations, provided that they immediately contact the Director of the Department to notify him of the actions they have taken and their reasons.

The first shot must be fired in space. If the inmate continues to try to escape after this warning, the persons assigned to guard him may shoot in the direction of his leg [59].

Inmates must be warned when entering the correctional center and when they leave it to work outside it to the right of supervisors and custodians assigned to guard the inmates to use their

(56) Article 81 bis of the bylaws of reform centers, added by Minister of Interior Decision No. 345 of 2017.

(57) Rule No. 65 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

(58) Article 87 of the Reform and Community Rehabilitation Centers Law, and Article 102 of the Police Authority Law.

(59) Article 2 of the Minister of Interior's Resolution No. 213 of 1964 regarding the determination of the work carried out by the second-degree soldiers in the reform and rehabilitation centers.

firearms against them to repel any attack or any resistance accompanied by the use of force and to prevent the escape of any inmate[60].

The Director of the Correction and Rehabilitation Center shall immediately inform the Assistant Minister for the Community Protection Sector, the Director of Security, and the Public Prosecution of the inmates' agitation or collective disobedience, or upon learning of hunger strikes, and the measures taken by the management of the Correction Center in this regard [61].

He shall also notify the Director of the Community Protection Sector for the military reform centers under his administration and the competent security director for the military reform centers of the security directorates, provided that this is recorded in the daily record of the incidents of the reform center [62].

Minister of Interior Decree No. 156 of 1964 stipulated the controls on the use of firearms, in the event of repelling any attack or any resistance accompanied by the use of force by inmates or to prevent their escape, as follows:

1- the force fires shots into space as an ultimatum to cease resistance or attempt to escape.

2- If the inmate continues to resist or try to escape after this warning, those in charge of guarding him shall shoot him [63].

Third: Arming guard personnel in correction and rehabilitation centers

The Minister of Interior had issued his decision No. 31 of 1957 regarding the arming of guard personnel in the correction centers: which stipulated that guard personnel in the correction centers should be armed with Lee Anfield rifles, 92 and 7 rifles, machine guns and Alberta Brablom caliber 9 mm[64].

And to arm first: the supervisors (the guards and the work of the external teams), and second: the conscripts (by two-thirds of the force of the soldiers) with the rifle Lee Anfield [65].

Conscripts are armed with crews to guard public correction and rehabilitation centers and the open areas where inmates work with long-range machine guns, while non-commissioned officers of the rank of Gawish and Onbashi conscripts, and non-commissioned officer of the rank of Gawish and

(60) Articles 87 and 88 of the Law on the Organization of Correction and Community Rehabilitation Centers.

(61) Article 46 of the Law Regulating Correction and Rehabilitation Centers, and Article 52 of the Internal Regulations of Geographical Reform Centers.

(62) Article 43 of the bylaws of military reform centers.

(63) Article 1 of the Minister of Interior Resolution No. 156 of 1964 on regulating the use of firearms.

(64) Article 1 of the Minister of Interior's Resolution No. 31 of 1957 regarding the arming of guard personnel in reform centers.

(65) Article 2 of the decision of the Minister of Interior regarding the arming of guard personnel in reform centers.

Onbashi supervisors in the external guards of the walls of the correction centers, and prayers and Pashgawish in the deportation work, are armed with short-range machine guns[66].

While the officers of different ranks and units, the cavalry forces of the Authority, and the storage guards inside the offices are armed with Alberta 9 mm caliber [67].

It is taken into account that there are 25% of the number of weapons of various types in the hands of the forces as an emergency reserve in the Department of Warehouses in the Authority [68].

The members of the Authority shall be trained with live ammunition annually according to the program prepared by the fire officer of the Authority [69].

It is also taken into account to provide spare parts at the rate of 25% of the salary of weapons of each type in the Department of Warehouses in the Authority to repair what is damaged [70].

The Warehouse Department shall, with the knowledge of the technicians, inspect all these weapons and ammunition at least once a year [71].

The salary for ammunition of each of these types of weapons is as follows:

(i) 30 rounds per cartridge, of which 20 are disbursed with the weapon and the rest in the warehouses.

(ii) 50 rifle rounds of which 20 are discharged with the weapon and the rest in the stores.

(iii) 150 rounds for each sub-machine gun, of which 50 are disbursed with the weapon and the rest in the stores.

(iv) 500 rounds for each long machine gun, 300 of which are disbursed with the weapon and the rest in the stores[72].

([66]) Article 4 of the decision of the Minister of Interior regarding the arming of guard personnel in reform and community rehabilitation centers.

([67]) Article 5 of the decision of the Minister of Interior regarding the arming of guard personnel in reform and community rehabilitation centers.

([68]) Article 6 of the decision of the Minister of Interior regarding the arming of guard personnel in reform and community rehabilitation centers.

([69]) Article 9 of the decision of the Minister of Interior regarding the arming of guard personnel in reform and community rehabilitation centers.

([70]) Article 7 of the decision of the Minister of Interior regarding the arming of guard personnel in reform and community rehabilitation centers.

([71]) Article 10 of the decision of the Minister of Interior regarding the arming of guard personnel in reform and community rehabilitation centers.

([72]) Article 8 of the decision of the Minister of Interior regarding the arming of guard personnel in reform and community rehabilitation centers.

Section 2: Controls over the use of firearms in the event of the arrest of a convicted person

Minister of Interior Decree No. 156 of 1964 stipulates the controls on the use of firearms, in the event of the arrest of a person sentenced to a felony or imprisonment for a period not exceeding three months or accused of a felony or flagrante delicto in which an arrest warrant may be issued if he resists or tries to escape:

(1) The convict or accused shall be given an audible verbal warning of the use of a firearm if he has not ceased to resist or run away;

(2) If it is impossible for the verbal warning to reach the hearing of the convict or the accused, his warning shall be to fire a shot in space;

(3) If the convict or the accused continues to resist him or his attempt to escape after being warned by one of these two means, he shall be shot ([73]).

Section 3: Controls on the use of firearms in the event of crowd dispersal or demonstration

In the event of the dispersal of a gathering or demonstration that occurs from at least five people if public security is endangered:

(1) The head of the force gives an oral warning to the demonstrators or demonstrators, ordering them to disperse within an appropriate period, indicating the ways in which he should disperse them, and warning them that he will have to shoot them if they do not comply with this order.

It shall be taken into account that the warning shall be audible or by a means that ensures that it reaches their ears and that it shall facilitate the means of dispersal for the crowds or demonstrators within the specified period;

(2) If the crowd refrains from dispersing despite their warning and the period specified for them in the warning has elapsed, force shall fire at them and the shooting shall be intermittent to allow the crowd to disperse;

(3) When firing, take into account the use of small-size spray rifles first, and if you do not find in the dispersal of the crowd the use of firearms with bullets, then rapid-fire weapons if necessary;

(4) The order to fire must be issued by the officer in charge. If he is not previously appointed, this order shall be issued by the most senior duty bearers ([74]).

In all cases, members of the police shall abide by the following rules:

([73]) Article 1 of the Minister of Interior Resolution No. 156 of 1964 on regulating the use of firearms.

([74]) Article 1 of the Minister of Interior Resolution No. 156 of 1964 on regulating the use of firearms.

(1) The use of firearms to the extent necessary to prevent resistance, escape or to disperse crowds or demonstrators, provided that shooting is the only means of doing so.

(2) The use of firearms shall be resorted to only after all other means have been exhausted, such as advice, the use of sticks or tear gas, as the case may be, and whenever possible.

(3) When shooting in space, utmost care should be taken so that no innocent person is injured - and aiming should be when shooting at the legs whenever possible[75].

Unit 3: Accountability for the wrong use of force and firearms

In cases where the police are forced to use force or fire, this must be done in accordance with legal controls, and in case of violation, the violators must be held accountable and punished.

In general, every illegal or arbitrary use of force or firearms must be subject to accountability and thorough investigations with the violators. In this case, responsibility lies not only with the police officers, but also with the superiors who gave the violating orders, or who did not take the appropriate measures when they knew - or should have known - to prevent their personnel from using force in a manner contrary to the law. The issuance of illegal orders to use force does not exempt anyone from legal accountability and punishment if it is proven that they knew the illegality of those orders and had the opportunity not to implement them.

The right to peaceful assembly and demonstration is one of the rights recognized in international human rights law and this right is determined by the International Covenant on Civil and Political Rights as follows: «The right to peaceful assembly is recognized, and no restrictions may be placed on the exercise of this right except those imposed in accordance with the law and constitute necessary measures, in a democratic society, for the maintenance of national security, public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others» [76].

The Egyptian Constitution also recognized the right of citizens to organize public meetings, processions and demonstrations. Article 73 stipulates that: "Citizens have the right to organize public meetings, processions and demonstrations, and all forms of peaceful protests, without carrying a weapon of any kind, with notification as regulated by law. The right of the private meeting to be held peacefully is guaranteed, without the need for prior notice, and security personnel may not attend, monitor, or eavesdrop on it. "

Dealing with public gatherings and demonstrations, whether licensed or unlicensed, requires additional vigilance by the police, because such gatherings may sometimes pose a serious threat to security and order, as they may cause damage to lives and public and private property. Therefore, all actions of the police against this type of gathering must always be governed by the

([75]) Article 2 of the decision of the Minister of Interior regarding the regulation of the use of firearms.

([76]) Article 21 of the International Covenant on Civil and Political Rights.

four basic principles mentioned above, that is, every action by the police must be governed by legality, necessity, proportionality and accountability.

It is important to realize that any restrictions that may be imposed on peaceful assemblies and demonstrations must not exceed what is necessary to maintain security and order, considering that such restrictions do not affect, to a disproportionate extent, the constitutional and legal rights of individuals. It is of great importance in this regard to respect and protect the right to life and freedom, as well as the safety of individuals participating in peaceful assemblies or demonstrations. This means that the police have a duty to protect peaceful assemblies from acts of violence that may be committed by others, whether individuals or violent countergroups. Policing must continue to be governed by the principles of legality, necessity and proportionality even in situations where gatherings or demonstrations are illegal but peaceful. In such cases, it may be preferable for the police not to disperse such gatherings if police intervention is likely to result in an unnecessary escalation of the situation, which may entail significant risks of loss of life or damage to property.

In all cases, the police, in dealing with gatherings and demonstrations, should give priority to methods of establishing contact with the leaders of these gatherings or demonstrations, for the purpose of negotiation, calm and de-escalation, so that things do not reach a point beyond control and the serious consequences of this on security and public order. Of course, all this requires appropriate training for police officers, and providing them with the necessary means to deal with such situations.

In this regard, too, the police should not show a field appearance that contributes - sometimes unintentionally - to creating an atmosphere of hostility to gatherings and demonstrations, and should always improve the selection of appropriate equipment and means to deal with the situation.

Section 1: Definitions

A- What is meant by the general meeting

It is any gathering held in a public place or place that is entered or accessible to persons without a prior personal invitation whose number is not less than ten to discuss or exchange views on a topic of a general nature

Electoral meetings that meet the following conditions shall be considered general meetings:

1- Its purpose is to select a candidate or candidates for membership of the parliaments or to hear their electoral programs;

2. To be limited to voters and to candidates or their agents;

3-The meeting shall be held within the prescribed period for electoral campaigning [77].

B- What is meant by the demonstration

It is any gathering of more than ten people held in a public place or walking in public roads and squares to peacefully express their opinions, demands or political protests [78].

C- What is meant by the procession

It is every march of more than ten people in a place, road or public square to peacefully express non-political views or purposes [79].

D- What is meant by the field commander

Security Manager or his representative within the scope of his geographical competence[80].

Section 2: The right to organize public meetings, processions and demonstrations

Citizens have the right to organize public meetings, processions and demonstrations, and all forms of peaceful protests, not bearing arms of any kind, with notification as regulated by law

The right to a private meeting peacefully is guaranteed, without the need for prior notice, and security personnel may not attend, monitor, or eavesdrop on it ([81].

Section 3: Places for public meetings, processions or peaceful demonstrations

First: Places where the general meeting, procession or demonstration is prohibited

1. Prohibition of public meetings, processions or demonstrations in places of worship

It is prohibited to hold a general meeting for political purposes in places of worship, in their courtyards, or in their annexes, and it is also prohibited to conduct processions from or to them or demonstrate in them [82].

2- Safe Haram

The Minister of Interior shall, by a decision issued by him in coordination with the competent governor, determine a designated safe campus in front of vital sites such as presidential

([77]) Article 2 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

([78]) Article 4 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

([79]) Article 3 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

([80]) Article 5 of the Minister of Interior's Resolution No. 15 of 2014 on the organizational controls of the Presidential Decree Law No. 107 of 2013 regulating the right to public meetings, processions and peaceful demonstrations.

([81]) Article 73 of the amended Constitution of the Arab Republic of Egypt of 2014, and Article 1 of Law No. 107 of 2013 regarding the regulation of the right to public meetings, processions and peaceful demonstrations.

([82]) Article 5 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

headquarters, parliamentary councils, the headquarters of international organizations, foreign diplomatic missions, government, military, security, and supervisory establishments, the headquarters of courts, prosecution offices, hospitals, airports, petroleum installations, educational institutions, museums, archaeological sites, and other public facilities.

Participants in the general meeting, procession or demonstration are prohibited from exceeding the scope of the sanctuary stipulated in the previous paragraph [83].

The Minister of Interior has authorized the security managers to determine those places[84].

Second: Places where public meetings, processions or peaceful demonstrations are permitted for peaceful expression

The competent governor shall issue a decision to determine a sufficient area within the governorate in which public meetings, processions or peaceful demonstrations are permitted for the peaceful expression of opinion without being bound by the notification [85].

The competent security director shall take the necessary measures and procedures to secure public meetings, processions and peaceful demonstrations in the areas specified by a decision of the competent governors and appoint the necessary services to secure public and private facilities and property and protect lives [86].

The provision of Article 15 of the law, which obliges the competent governor to specify a sufficient area, within the governorate, to demonstrate, is that these demonstrations are peaceful [87].

Third: Prohibitions on participants in public meetings, processions or demonstrations

Participants in public meetings, processions or demonstrations are prohibited from:

1- Carrying any weapons, ammunition, explosives, fireworks, incendiary materials or other articles or materials that expose personnel, installations or property to damage or danger;
2- Wearing masks or covers to conceal facial features to commit any of these acts[88].
3- disturbing security or public order or disrupting or advocating production;
4- Disrupting the interests of citizens, harming them, endangering them or preventing them from exercising their rights and actions;

([83]) Article 14 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

([84]) Article 7 of the Minister of Interior's Resolution No. 15 of 2014 on the organizational controls of the Presidential Decree Law No. 107 of 2013 regulating the right to public meetings, processions and peaceful demonstrations.

([85]) Article 15 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

([86]) Article 8 of the Minister of Interior Resolution No. 15 of 2014 on the organizational controls of the Presidential Decree Law No. 107 of 2013 regulating the right to public meetings, processions and peaceful demonstrations.

([87]) Appeal No. 15854 of 84 S issued at the session of February 23, 2015 (unpublished).

([88]) Article 6 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

5- Affecting the course of justice, public utilities, banditry, transportation, land, water or air transport, or disrupting traffic;

6- Attacking or endangering public or private life or property [89].

The Supreme Constitutional Court ruled that: [Whereas the ignorance of the punishable acts in accordance with the text of Article 7 of Decree-Law No. 107 of 2013 and the ambiguity, concealment and dilution of their terms are irrelevant, as the crimes mentioned in this article fall within what is known as the result crimes, which are those crimes in which it is primarily necessary to achieve a criminal result that violates a prescribed right, or embodies an aggression against a considered interest, or is resolved in a storm of discretionary freedom, regardless of the form of the material act, and this type of formulations The legislator resorts to it when the practical reality predicts the difficulty of counting criminal acts and listing them one by one, as is the case with the contested text, as the means of aggression against the rights, freedoms and interests mentioned in Article 7, and their means are incalculable, impossible to monitor, count or predict, and they vary in their forms and forms, so that all of them become impossible to predict in practice. The legislator had no choice in the field of determining the acts forbidden from them, except to indicate them through a public officer who is not ignorant of their content or confuses about their truth, but rather determines their content by reference to their goal or intended purpose. From them, making it a crime to commit an attack on the rights, freedoms and interests set forth in this article, all of which are considered rights, freedoms and interests, the Constitution lists most of them as the right to life, the right to physical integrity, the right to work, freedom of movement and the right to security. Since the inception of the modern legal state, laws have guaranteed the rest of them, so that each of these words has a specific and disciplined meaning, and then the word "expansion" and "dilution" is mentioned, and the suspicion of concealment and ambiguity is avoided. It goes without saying that the crime prescribed in the contested article is a deliberate crime. It is indivisible in the criminalization of the error, whatever its form or degree, the crime does not occur unless the act is committed knowingly by its nature and the will to come to it, and the will of the perpetrator, discerningly, tends to aggression against one of the rights, freedoms and interests mentioned exclusively in this article, provided that the aggression is actually committed, and it is also clear that the drafting of this article has enshrined the personality of responsibility, so only those who have already committed it are asked about the crime, as the sin is personal and does not exclude the viewer that the contested article addresses everyone who participated in any meeting, procession or peaceful demonstration, whether It has been notified of its organization by law or not, but there is a fundamental difference between those who participated in a legally notified demonstration and others, as the first group has been fortified by using a right established by the Constitution, which requires a measure of tolerance, because its exercise - for the most part - has an impact on other rights and freedoms, such as the right of individuals to movement, their right to tranquility, and others, to strike a balance between

([89]) Article 7 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

constitutional rights and freedoms and ensure their exercise, and coexistence between them without incompatibility or contradiction to the end of each regulation enacted by the legislature in this regard, as is the case of the contested text in dealing with the right to assembly in its various forms, as it is the optimal environment for the exercise of freedom of expression, which is in itself a supreme value that is inseparable to democracy, and states establish their societies in light of it, in order to preserve the interaction of their citizens with them, in order to ensure the development of their structures and the deepening of their freedoms, and since the text of Article 7 of Decree-Law No. 107 of 2013 regulating the right to public meetings and peaceful demonstrations is disciplined by constitutional controls for incrimination, and does not violate Articles (54/1, 73/2, 95) of the Constitution[90].

The Court of Cassation ruled that: [It is clear from the extrapolation of the articles of Decree-Law No. 107 of 2013 on the organization of the right to public meetings, processions and peaceful demonstrations that they have clearly indicated in their express terms that every meeting is held in a public place or place and every procession or demonstration is held or conducted in a place, road or public square consisting of at least ten people, even if it occurs with views or purposes other than political, demands or political protests prohibited by Article 7 thereof, whenever it would disrupt security or public order, disrupt the interests of citizens, harm them, endanger them, prevent them from exercising their rights and works, affect the course of justice or public utilities, cut off roads, transportation, land or water transport, disrupt traffic, or attack lives or public or private property, or endanger them] [91].

Fourth: Procedures for notifying the organization of a public meeting, procession or peaceful demonstration

Whoever wants to organize a public meeting or conduct a procession or demonstration must notify in writing the police department or station in which the place of the general meeting or the place of the start of the procession or demonstration is located [92].

The notice shall be given at least three working days before the start of the general meeting, the procession or the demonstration, and a maximum of fifteen days. This period shall be shortened to twenty-four hours if the meeting is elective, provided that the notice is delivered by hand or by a warning by minutes [93].

The notification must include the following data and information:

(90) Case No. 234 of 36 S issued in the session of 3 December 2016, publication date 15 December 2016, page No. 36.

(91) Appeal No. 27686 for the year 84 S issued at the session of May 18, 2015 and published in the letter of the Technical Office No. 66, page No. 480, rule No. 66.

(92) Article 8 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

(93) Article 8 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

1- The place of the general meeting or the place and itinerary of the procession or demonstration;
2- The start and end date of the general meeting, procession or demonstration;
3- The subject of the general meeting, procession or demonstration, its purpose, demands and slogans raised by the participants in any of them;
4- The names of individuals, the organizer of the general meeting, processions or demonstrations, their characteristics, their place of residence and means of communication with them [94].

The Supreme Constitutional Court ruled that: [Whereas the decision in the judiciary of this court is that the principle of the legislator's authority to regulate rights is that it is a discretionary authority unless the Constitution restricts it to certain controls, and the essence of the discretionary authority was the choice made by the legislator between the various alternatives to choose what is estimated to be the most appropriate for the interest of the group and the most appropriate to meet its requirements regarding the subject dealt with by the organization, and the Constitution authorized the legislator to regulate the notification to exercise the right to organize public meetings, processions, demonstrations and all forms of protests, within the framework of his authority in this organization in a manner that is estimated It is the most appropriate to achieve the interest of the group, and accordingly; the legislator determined the body that receives the notification in the police station or station in which the place of the general meeting or the place of the start of the procession or demonstration is located, considering that the police is the body entrusted with the burden of taking measures related to the protection of the meeting, procession or demonstration, and its participants, and the protection of lives and private and public property, and how to prevent risks from it, and provide alternative paths to the roads that are affected by its establishment, and therefore the designation of the text of Article VIII contested by the police department or station referred to as an entity to which the notification is addressed, is in line with the provisions of Article (73) of the Constitution, and the tasks assigned by the Constitution to the police in Article (206) thereof in ensuring the tranquility and security of citizens, maintaining public order and morals, and respecting human rights and freedoms. The challenged text of Article (8) also required full notification at least three working days before the start of the general meeting, the procession, or the demonstration, and a maximum of fifteen days, unless the meeting was electoral, so the duration was reduced to twenty-four hours, allowing sufficient time for the security authorities to be able to arrange for the fulfillment of the tasks entrusted to them, and for the same purpose. The notification shall include the place of the general meeting or the place and route of the procession or demonstration, and the date of commencement and completion. The same article stipulates that the notification must include the subject of the general meeting, the procession or demonstration, its purpose, the demands and slogans raised by the participants to determine the compatibility of the meeting or demonstration with the provisions of the Constitution

([94]) Article 8 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

and the requirements of public order, as it does not justify the holding of a meeting or demonstration whose purpose is to incite discrimination and hatred against a sect or gender, contempt for a specific group or group, incitement to commit crimes, or opposition to democratic values. It is clear that The legislator shall request the names of individuals, the entity organizing the general meeting, the procession, or the demonstration, their attributes, their place of residence, and the means of contacting them to facilitate their identification and contact them if necessary. Hence, the organization chosen by the legislator in the contested text is consistent with the provisions of the Constitution, and there is no reason to dissolve, in order to reach the unconstitutionality of the text of the contested article to say that it is unreasonable that the notification provided by the organizers to the procession or demonstration must include the slogans echoed by the participants, as soon as the nature of the demonstration is joined by whoever he wishes, and that it generates its own slogans without the control of the organizers. This is due to the fact that the slogans raised at the meeting or demonstration are the most accurate expression of its subject and purpose, and the truest embodiment of its goals and objectives. The slogan and the subject matter are unwaverable, but it can be said that the slogan raised or launched by the demonstrators is the living crystal for the purposes and dimensions of the demonstration, and then it was necessary to identify these slogans to determine the compatibility of the meeting or demonstration and the provisions of the Constitution and the requirements of public order. However, this does not prevent the spontaneous interaction of the participants in the meeting or demonstration, when they launch, from producing other new slogans, then he will not be asked about them, if they are subject to criminalization only by those who launched and repeated them from the demonstrators and not others in accordance with the principle of the personality of criminal responsibility] [95].

Fifth: Committee for Securing Public Meetings, Processions and Notified Events

A permanent committee shall be formed in each governorate by a decision issued by the Minister of Interior headed by its Director of Security. Its task shall be to set the procedures and measures to ensure the security of public meetings, processions and demonstrations notified of them, and the methods of dealing with them in the event of their departure from the peaceful framework, in accordance with the provisions of the law[96].

This committee shall be formed under the chairmanship of the competent Director of Security and shall include in its membership the directors of the concerned departments of the Directorate and representatives of the specific sectors, namely:

Deputy Director of Security..... Deputy

Director of General Department/Criminal Investigation Department..... Member

([95]) Case No. 160 of 36 S issued at the session of December 3, 2016, date of publication December 15, 2016, page No. 13.

([96]) Article 9 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

Director of General Department/Traffic Department..... Member

Director of General Department/Security Forces Department..... Member

Director General/Facilities Police Department..... Member

Director of General Department/Civil Protection Department..... Member

Director of General Department/Al Najdeh Police Department..... Member

Representative of the Central Security Sector..... Member

A representative of the Public Security Sector..... Member

Representative of the National Security Sector..... Member

A representative of the Inspection and Control Sector (Internal Inspector) ..... Member

Director of Service Affairs Department..... Rapporteur

He shall be replaced by the Vice-President in the event of his absence or impediment to the commencement of his business.

The committee may seek the assistance of whomever it deems fit to complete its terms of reference; and the committee shall meet at the invitation of its chairman, or whomever replaces him. [97]

The committee is competent to set the procedures and measures to secure the notified public meetings, processions, and peaceful demonstrations, and to determine the methods of dealing with them if they deviate from the peaceful framework.

To this end, it may determine the number of forces participating in insurance and the alternative routes taken by the demonstrators in the event of warning them to disperse and develop the necessary insurance plans to maintain the safety of participants in public meetings, processions or peaceful demonstrations and to secure lives and public and private property [98].

The security forces shall, within the framework of the procedures, measures and methods of dealing established by the committee, take the necessary procedures and measures to secure the public meeting, the procession or the notified demonstration, and preserve the safety of its participants, and public and private lives and property, without hindering its purpose [99].

([97]) Article No. 1 of the Minister of Interior Decree No. 15 of 2014 on the organizational controls of the Presidential Decree Law No. 107 of 2013 regulating the right to public meetings, processions and peaceful demonstrations.

([98]) Article 2 of the Minister of Interior's Resolution No. 15 of 2014 on the organizational controls of the Presidential Decree Law No. 107 of 2013 regulating the right to public meetings, processions and peaceful demonstrations.

([99]) Article 11 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

Sixth: Cancelling, postponing, relocating or changing the course of the general meeting, procession or demonstration

The Director of Security, within the scope of his competence, shall maintain coordination with the sector inspectors of the Public Security and National Security Department of the Directorate, to identify serious information, evidence and security indicators before the date of the meeting, procession or demonstration[100].

The Minister of Interior or the competent Director of Security may, if the security authorities obtain, before the date specified for the start of the general meeting, the procession or the demonstration, based on serious information or evidence, about the existence of a threat to security and peace, apply to the judge of provisional matters in the competent court of first instance to cancel or postpone the general meeting, the procession or the demonstration, move it to another place or change its course ([101]).

The judge shall issue a reasoned decision immediately upon applying to him, provided that the administrative authority notifies the person submitting the notification immediately upon its issuance [102].

Notifiers shall be notified of such decision at least twenty-four hours before the specified date, indicating the reasons for the prohibition in each case[103].

Those concerned may file a grievance against the decision under the rules prescribed by the Civil and Commercial Procedures Law [104].

In this regard, the Supreme Constitutional Court ruled that: [Whereas the Constitution was keen to impose on the legislative and executive authorities the restrictions it considered sufficient to preserve public rights and freedoms, foremost of which is the right to assemble and demonstrate peacefully, so that one of them does not invade the area protected by the right or freedom, or interfere with it, in a way that prevents its effective exercise, and the development and development of these rights and freedoms through continuous efforts to establish their international concepts among civilized nations, was a basic requirement in affirmation of their

([100]) The first paragraph of Article 3 of the Minister of Interior Resolution No. 15 of 2014 on the organizational controls of the Presidential Decree Law No. 107 of 2013 regulating the right to public meetings, processions and peaceful demonstrations.

([101]) Article 10 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations, as amended by Law No. 14 of 2017, and the second paragraph of Article 3 of the Minister of Interior Resolution No. 15 of 2014 on the organizational controls of the Presidential Decree Law No. 107 of 2013 regulating the right to public meetings, processions and peaceful demonstrations.

([102]) Article 10 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations, as amended by Law No. 14 of 2017.

([103]) The third paragraph of Article 3 of the Minister of Interior Resolution No. 15 of 2014 on the organizational controls of the Presidential Decree Law No. 107 of 2013 regulating the right to public meetings, processions and peaceful demonstrations.

([104]) Article 10 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations, as amended by Law No. 14 of 2017.

social value, and in appreciation of their role in the field of satisfying the vital interests associated with them, and That is, unlike the constitutional documents preceding the 2012 constitution, the existing constitution has moved towards a more advanced and democratic approach in preserving the right of peaceful assembly and its rights. The legislator took away the license to choose the means of exercising these rights and required them to be exercised by notification without other means of using and exercising the right, such as authorization and licensing. Since the notification is one of the means of exercising the right, it is to inform or inform the administration of the intention of the notifier to exercise the right notified, without this being dependent on the approval or non-objection of the administration, and all that it has, in this case, is that It verifies the availability of the legally required data in the notification and that it was submitted on time and to the entity specified in the law. If the notification completes its requirements and fulfills its requirements legally, the notifier has the right to exercise his right as stated in the notification, and it is no longer justified for the administration to impede the flow of the effects of the notification by preventing the notifier from exercising his right or narrowing its scope, even if it stays in the administrative control it is entitled to. Administrative control may not be taken as a reward for storming constitutional rights. If it did and prevented the demonstration or narrowed its scope, it would have wasted the origin and essence of the right and thus fell into the grip of constitutional violation.

However, the foregoing does not mean that the right to peaceful assembly or demonstration is an absolute right of every restriction, as these two rights, especially the right to peaceful demonstration, affect their use, most often for the requirements of security to one degree or another, and their exercise conflicts with other rights and freedoms, but may degenerate into an aggression against some of them, such as the right of individuals to movement and public tranquility, and others, a violation that is overlooked, and aggression that is tolerated, in favor of the rights of peaceful assembly and demonstration, as they are the most appropriate environment for the exercise of freedom of expression, which in itself represents a supreme value. Democracy is separated from it, and democratic countries establish their societies in its light, in order to preserve the interaction of their citizens with it, in order to ensure the development of its structure and the deepening of its freedoms, all provided that the meeting and demonstrations are peaceful, compatible with the provisions of the Constitution and the requirements of public order, and as long as the aggression against other rights and freedoms has not reached a degree of seriousness whose effects are irreversible, and therefore it is inevitable, in compliance with the constitutional values proclaimed by the legal state, that the judiciary is the reference, in each case separately, resorted to by the administration when it aims, for any reason, to stop the effects of the completion of the legal status of an organizer The meeting or demonstration, arising from the completion of the correct notification, to decide, at that time, the competent judiciary, and not others, whether there are interests, rights and freedoms that are more favorable, allowing the prevention of the peaceful meeting or demonstration, their postponement, transfer, modification of their dates or changing the course of the demonstration, in the light of the evidence, proofs and documented

information provided by the administration authority that require this and justify it if this is the case, and the first paragraph of Article 10 of Decree-Law No. 107 of 2013 regulating the right to public meetings, processions and peaceful demonstrations violated this consideration, granting the Minister of Interior and the competent Director of Security the right to issue a decision to prevent, postpone or transfer the notified meeting or demonstration, it thus abrogated the notification, which places it in violation of Articles (1/1, 73/1, 92/2, 94) of the Constitution, and then it must be ruled unconstitutional}[105] .

Section 4: Disbanding the general meeting or dispersing the procession or demonstration

If, during the general meeting, the procession or the demonstration, any act of the participants in it constitutes a crime punishable by law or a deviation from the peaceful nature of expression, the security forces shall have uniforms, and upon the order of the competent field commander, to adjourn the general meeting, disperse the procession or demonstration, and arrest those accused of committing the crime [106].

It is clear from this that the order is issued by the field commander of the security forces - in uniform - appointed to take the necessary measures to secure the public meeting, the procession or the demonstration and repeatedly warn the demonstrators to disperse that the demonstration is dangerous and peaceful [107].

([105]) Case No. 160 of 36 S, issued at the session of December 3, 2016, date of publication December 15, 2016, page No. 13. Article 10 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations allows the Minister of Interior or the competent Director of Security to issue a reasoned decision to prevent, postpone, relocate or change the course of the general meeting, procession or demonstration, in the event that the security authorities obtain - before the date specified for the start of the general meeting, procession or demonstration - serious information or evidence of the presence of a threat to security and peace. It stipulates that: "The Minister of Interior or the competent Director of Security may, in the event that the security authorities obtain - before the date specified for the start of the general meeting, procession or demonstration - serious information or evidence of the presence of a threat to security and peace, issue a reasoned decision to prevent the general meeting, procession or demonstration, postpone it or relocate it to another place or change its course, provided that the informers of that decision at least twenty-four hours in advance.

Without prejudice to the jurisdiction of the Administrative Court of Justice, the notifiers may file a grievance against the decision of prohibition or postponement to the judge of provisional matters in the competent court of first instance, provided that his decision is issued promptly. "

([106]) Paragraph 2 of Article 11 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

([107]) The Court of Cassation ruled that: [The text of Article 11 of the Demonstration Law No. 107 of 2013 mentioned above stipulates that the implementation of its second paragraph, which requires that the dispersal of the demonstration of members of the security forces in uniform and by order of the field commander must be that this demonstration is notified and that it is peaceful and that what constitutes a crime or a departure from the peaceful nature is issued] Appeal No. 17495 of 86 S issued at the session of April 8, 2018 (unpublished).

It also ruled that: [The order is to be issued by the field commander of the security forces - in uniform - appointed to take the necessary measures to secure the general meeting, the procession or the demonstration and the repeated warning of the demonstrators to disperse in accordance with the text of Articles 11 and 12 of Law No. 107 of 2013 that the demonstration is notified] Appeal No. 18989 of 84S issued at the session of May 18, 2015 (unpublished), and see: Appeal No. 15854 of 84S issued at the session of February 23, 2015 (unpublished).

The Court of Cassation ruled that: [The first paragraph of Article 8 obliges those who want to organize a demonstration to notify in writing that department or police station in which the place of the demonstration is located, and the notification is made three days before the start of the demonstration, and the demonstration that is notified may be innocent in its composition. However, what constitutes a crime punishable by law or takes it out of the peaceful nature of expression of opinion, so Article 11 of the same law stipulates that the security forces in uniform and on the basis of an order from the competent field commander to break up the demonstration and arrest those accused of committing the crime, and the reference to everyone who participated in the demonstration was entitled to the punishment stipulated in Article 19 of this law, and it was decided that it was sufficient in the rule of law for the crowd to take place subject to and without prior agreement for the crowds to deserve punishment. Whereas, the primary and supplementary judgment of the contested judgment indicated the fact of the lawsuit with the elements of participation in a demonstration without notice and that the appellant was within this demonstration - and the appellant did not deny that the demonstration was without notice - and the order was issued by the field commander of the security forces - in uniform - appointed to take the necessary measures and insurance measures General meeting, procession or demonstration and repeated warning of the demonstrators to disperse is not necessary as long as the demonstration is prohibited in itself or because of not being notified of it][108].

The spatially competent security director may, before dispersing, separating, or arresting, request the judge of temporary matters in the competent court of first instance to delegate whoever he deems fit, to prove the non-peaceful situation of the general meeting, procession, or demonstration, and the judge shall issue his order expeditiously [109].

If the Director of Security requests the judge of provisional matters in the competent court of first instance to delegate whoever he deems necessary to prove the non-peaceful situation before the dissolution of the general meeting, the procession or the demonstration, this procedure must be recorded in an official record, which shall be recorded in the register of cases in the competent police department or station before the dissolution or separation. In this case, evidence and evidence shall be preserved and appropriate precautionary measures shall be taken in this regard [110].

The order to adjourn the general meeting, disperse the procession or demonstration, and arrest those accused of committing any act that constitutes a crime punishable by law shall be issued by

([108]) Appeal No. 27686 of 84 S issued at the 18th session of May 2015 and published in the Technical Office's letter No. 66, page No. 480, rule No. 66, and Appeal No. 18572 of 84 S issued at the 27th session of January 2015 and published in the Technical Office's letter No. 66, page No. 188, rule No. 21.

([109]) The third paragraph of Article 11 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

([110]) Article No. 4 of the Minister of Interior Decree No. 15 of 2014 on the organizational controls of the Presidential Decree Law No. 107 of 2013 regulating the right to public meetings, processions and peaceful demonstrations.

the competent field commander, and the issuance of the order shall be recorded in the minutes issued for this purpose ([111]).

First: Disbanding or dispersing the general meeting, procession or demonstration without the use of force

The security forces shall, in cases where the law permits the dispersal or dispersal of the public meeting, procession, or demonstration, do so in accordance with the following means and stages:

A. Asking the participants in the general meeting, procession or demonstration to leave voluntarily by issuing repeated verbal warnings in an audible voice, to break up the general meeting, procession or demonstration, including identifying and securing the routes taken by the participants when they leave.
B. In the event that the participants in the general meeting, the procession, or the demonstration do not respond to the warnings to leave, the security forces shall disperse them according to the following gradation:
    1- Use of water hoses;
    2- Use of tear gas;
    3- The use of batons [112].

Second: Disperse or disperse the general meeting, procession or demonstration using force

If the previous means are useless to disperse and disperse the participants in the general meeting, procession, or demonstration, or that they carry out acts of violence, sabotage, or damage to public or private property, or infringe on persons or forces, the security forces shall gradually use force as follows:

1- Use of warning shots;
2- Use of stun grenades or smoke grenades;
3- Use of rubber cartridge rounds;
4- Use of non-rubber cartridge bullets [113].

If the participants in the general meeting, procession or demonstration resort to the use of firearms, which gives rise to the right of legitimate defense, they shall be dealt with to repel the attack by means commensurate with the extent of the danger to self, money or property ([114]).

There is an important point related to the use of firearms in situations that portend mass violence. In most situations, the use of firearms may not lead to the restoration of security and order. On the contrary, shooting exacerbates the situation and gets out of control and the consequent spread of

([111]) Article 6 of the Minister of Interior's Resolution No. 15 of 2014 on the organizational controls of the Presidential Decree Law No. 107 of 2013 regulating the right to public meetings, processions and peaceful demonstrations.

([112]) Article 12 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

([113]) Article 13 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

([114]) Article 13 of the Law Regulating the Right to Public Meetings, Processions and Peaceful Demonstrations.

chaos and turmoil. Therefore, the decision to use firearms must remain the last exceptional resort to confront situations that may lead to death or serious injuries, provided that they are used only by trained personnel, and when all other means fail.

Finally, if police efforts to address assemblies and demonstrations fail, and it appears that things are spiraling out of control, portending serious confrontations and disturbances that threaten the life of society and the nation, the authorities may declare a public emergency for the purpose of restoring security and order.

In this case, the government can entrust the armed forces (the army) with the task of maintaining security and order, taking into account the great dangers involved in using the army in this matter, because the army forces are mainly prepared to confront and fight the external enemies of the state, not to confront the masses of the people in the streets.

Chapter 2: The Mission of the Police in Serving the Community and Helping the Public

Democratic transitions and increased awareness of human rights issues required a fundamental shift in the role and functions of the police. Today, the police is no longer an authoritarian apparatus that serves the survival of governments and regimes by any means. Rather, in democratic societies, the police has become an apparatus for serving and protecting society in accordance with the Constitution and the law. The police service to society is intended to help members of society in need of immediate assistance for emergency reasons, whether personal or public.

In addition to the task of the police in preventing, detecting and investigating crimes, and its task in maintaining order and security as detailed above, the police must perform protection tasks and assist those in need - in particular to the most vulnerable social groups, which are also considered either under age such as children or elderly persons, or by gender such as women, or under the objective circumstances surrounding the person such as victims of crime, victims of natural disasters, such as earthquakes, floods and storms, as well as victims of accidents, such as traffic accidents, fires and quarrels, as well as providing service and protection to people who are in a state of movement or forced movement as a result of force majeure circumstances, such as refugees, displaced persons and migrants.

The task of the police in serving and protecting these vulnerable groups is especially important, given that they are more vulnerable than others to discrimination in treatment, exploitation and abuse, and some of these groups may not have access to the basic means of survival or may be unable to take care of themselves, which requires that the police pay special attention to these groups.

The role of the police in providing service and protection to the most vulnerable groups is outlined below:

By virtue of their work, the police and other security agencies are often the first to take stock of the situation of victims of various crimes.

This initial contact places the responsibility on the policemen to act as a legal, humanitarian and psychological paramedic for the victim, which means that the policeman does everything in his power to ensure that the situation does not become worse for the victims of crime, who often suffer from trauma due to the physical or psychological harm they have suffered, which requires treating them with great compassion and care, because they are in dire need of legal protection and medical and psychological care in order to regain a sense of safety, and so that they do not return to the state of turmoil and panic resulting from the trauma of their exposure to crime.

In such cases, the police should not only look for the perpetrator, but also take into account the position and situation of the victim, and make every effort to respect his or her privacy.

It is very important that the police provide all possible help to victims of crime to obtain their assistance in procedures aimed at apprehending and prosecuting perpetrators and enable them to obtain information, redress and compensation.

There is an additional duty on police and security officers, which is to protect children and adolescents or juveniles, given that this group needs additional protection due to their incomplete mental and physical development, which makes them vulnerable to abuse or exploitation, and they become victims of many types of crimes. In turn, children or juveniles may, at times, be the perpetrators or suspects in the commission of crimes.

According to the Convention on the Rights of the Child, a child means anyone who has not attained the age of 18 years, unless he has reached the age of majority in accordance with national law [115].

A child in the field of care stipulated in the Child Law means anyone who has not exceeded the age of eighteen full Gregorian years [116].

1- States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when the competent authorities, subject to judicial review, determine, in accordance with applicable laws and procedures, that such separation is necessary to safeguard the best interests of the child and such determination may be necessary in a particular case such as that of abuse or neglect of the child by the parents, or when the parents are living separately and a decision on the child's place of residence has to be taken;
2- In any proceedings under paragraph 1, all interested parties shall have the opportunity to participate in the proceedings and make their views known;

([115]) Article 1 of the Convention on the Rights of the Child, which Egypt approved by Presidential Decree No. 260 of 1990.

([116]) Article 2 of the Child Law, as amended by Law No. 126 of 2008.

3- States Parties shall respect the right of a child who is separated from both or one of his or her parents to maintain, regularly, personal relations and direct contact with both parents, unless it is contrary to the best interests of the child;
4- In cases where this Chapter arises from any action taken by a State Party, such as the subjection of one or both parents or the child to detention, imprisonment, exile, deportation or death (including death occurring for any reason while the person is in the custody of the State Party), that State Party shall, upon request, provide the parents, the child or, where appropriate, another member of the family with essential information concerning the whereabouts of the absent family member (s) unless the provision of such information would not be in the best interest of the child and States Parties shall further ensure that the submission of such a request does not, in and of itself, entail any adverse consequences for the person concerned[117].

Neither capital punishment nor life imprisonment nor rigorous imprisonment shall be imposed on a defendant who has not exceeded the age of eighteen Gregorian years at the time of the commission of the crime.

If a child over fifteen years of age commits a crime punishable by death, life imprisonment, or rigorous imprisonment, he shall be sentenced to imprisonment. If the crime is punishable by imprisonment, he shall be sentenced to imprisonment for a period of no less than three months.

In lieu of a custodial sentence, the court may sentence him to placement in a social welfare institution.

However, if a child over the age of 15 commits a misdemeanor punishable by imprisonment, the court may, instead of ruling the punishment prescribed for it, decide either to place him under judicial probation, to work for the public benefit in a way that does not harm the health or psychology of the child, or to be placed in a social welfare institution [118].

States are also obliged to ensure:

a. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment, nor shall the death penalty or life imprisonment be imposed for offences committed by persons below 18 years of age without possibility of release;
b. No child shall be deprived of his or her liberty unlawfully or arbitrarily and the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
c. Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from

([117]) Article 9 of the Convention on the Rights of the Child.

([118]) Articles 101, 111 of the Child Law.

adults, unless it is considered in the child's best interest not to do so, and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

d. Every child deprived of liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action[119].

No arbitrary or unlawful exposure shall be made to the child in his private life, family, home or correspondence, nor shall any unlawful infringement on his honor or reputation, and the child has the right to be protected by law from such exposure or infringement [120].

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian (s) or any other person who has the care of the child.

Such preventive measures should include, as appropriate, effective procedures for the development of social programs to provide the necessary support to the child and to those who have the care of the child, as well as for other forms of prevention, and for the identification, reporting, referral, investigation, treatment and follow-up of cases of child abuse reported to date, as well as for judicial intervention as appropriate ([121]).

States Parties shall take all appropriate measures to promote the physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment, or armed conflict. Such rehabilitation and reintegration shall take place in an environment that fosters the health, self-respect and dignity of the child [122].

States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, and shall promote the child's respect for the human rights and fundamental freedoms of others, taking into account the age of the child, the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

To this end, and taking into account the provisions of relevant international instruments, States Parties shall, in particular, ensure that a child is not alleged as, accused of, or recognized as having

([119]) Article 37 of the Convention on the Rights of the Child.

([120]) Article 16 of the Convention on the Rights of the Child.

([121]) Article 19 of the Convention on the Rights of the Child.

([122]) Article 39 of the Convention on the Rights of the Child.

infringed penal law for acts or omissions that were not prohibited under national or international law at the time they were committed [123].

Every child alleged as or accused of having infringed the penal law shall have at least the following guarantees:

1- To be presumed innocent until proven guilty according to law;
2- Immediately and directly notify him of the charges against him, if necessary through his parents or legal guardians, and obtain legal or other appropriate assistance to prepare and present his defence;
3- Determination by a competent, independent and impartial authority or judicial body of his or her case without delay in a fair trial in accordance with the law, in the presence of legal counsel or other appropriate assistance and in the presence of his or her parents or legal guardians, unless it is considered to be against the best interests of the child, in particular taking into account his or her age or condition;
4- Not to be compelled to testify or confess guilt, to cross-examine or secure cross-examination of opposing witnesses and to ensure the participation and cross-examination of witnesses on his behalf under conditions of equality;
5- If it is considered that it has violated the Penal Code, ensure that this decision and any measures imposed accordingly are reviewed by a competent authority or a higher independent and impartial judicial body in accordance with the law;
6- to have the assistance of an interpreter free of charge if the child cannot understand or speak the language used;
7- Ensuring that his private life is fully respected during all stages of the lawsuit ([124].

States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and in particular:

(a) Establish a minimum age below which it is presumed that children cannot infringe the penal law;

(b) The desirability of taking measures where appropriate to treat such children without resorting to judicial proceedings, provided that human rights and legal safeguards are fully respected.

Provided that various arrangements, such as care, guidance and supervision orders, counselling, testing, foster care, vocational education and training programmes and other alternatives to

([123]) Article 40 of the Convention on the Rights of the Child.

([124]) Article 40 of the Convention on the Rights of the Child.

institutional care, are available to ensure that children are treated in an appropriate manner commensurate with both their circumstances and their offence [125].

As a vulnerable group, women need additional protection and care by the police, as women are often discriminated against, their rights are often ignored and they face many different types of violence inside and outside the home.

It is essential that the police provide protection and assistance to women whenever necessary, and that in carrying out their duty to protect, the police take into account the special needs and vulnerabilities of women, thus preventing them from becoming victims of crime.

Particular emphasis should be placed here on the duty of the police to prevent violence against women, which is critical given women's sensitivity to all forms of physical, psychological and verbal violence. In one word: "Violence directed against women because they are women, or violence that unfairly affects women, and includes: acts that inflict physical, mental or sexual harm or pain on them, preventing the threat of such acts, coercion, and other forms of deprivation of liberty." Sexual violence and forced prostitution fall under this definition and are often a difficult and sensitive task to investigate, which requires that police officers be trained to deal with these cases and their victims are women, which requires compassion, sensitivity and solidarity. In cases where women are suspected of violating the law, which may require their arrest or search on their own, this should be carried out by women police, and women should be interrogated and detained under the supervision of trained police.

It is essential that the police, in cases of suspicion of women, preserve their dignity and privacy, prevent any degrading or degrading treatment that may be inflicted on them, and investigate all allegations of violence against them.

In cases where it is decided that women will be detained or deprived of their liberty, this must be in places completely separate from men, and under the supervision of women from the police, which requires attracting a sufficient number of women to work in the field of police and training them to carry out the tasks of protecting and providing assistance to women.

The women's section of the prison building must be headed by a female official who has the keys to all the doors of the section. It is prohibited for any male prison staff to enter the women's section unless accompanied by a female staff member.

Women prison staff are exclusively responsible for the care and supervision of female prisoners, but this does not prevent male staff, especially doctors and teachers, from exercising their duties in the sections designated for women [126].

Medical examinations on female prisoners must only be attended by medical personnel unless the doctor considers that there are exceptional circumstances for security reasons in the presence of

([125]) Article 40 of the Convention on the Rights of the Child.

([126]) Rule No. 53 of the Standard Minimum Rules for the Treatment of Prisoners.

a prison staff member, or unless the prisoner requests the presence of a staff member for such examinations, provided that the staff member is a woman and that the examinations are conducted in a manner that ensures privacy, dignity and confidentiality [127].

The role played by the police and security services in protecting human rights in situations of instability resulting from unrest, wars or armed conflicts is becoming increasingly important. In such cases, many people are forced to leave their homes and places of habitual residence in search of safety. As they move from one place to another inside and outside the country, they are vulnerable to various forms of threats to their lives and rights. It may be difficult for them to obtain the basic means of survival (eating, drinking and housing). They may also be vulnerable to hostility, discrimination, abuse and exploitation in their new environment.

Police personnel must therefore be trained to deal with the needs of people on the move, especially during armed conflict, natural disasters and other emergencies. Among the categories that require additional special protection by the police are the following categories:

Unit 1: Refugees

Refugees are persons who are forced to leave their countries of nationality and habitual residence to other countries because of their fear of being persecuted because of their race, religion, nationality, membership of a particular social group or political opinions, outside the country of their nationality, and who cannot, or because of that fear, does not want to, avail themselves of the protection of that country, and this often happens during armed conflicts. According to international law, the receiving State has the duty to protect their basic human rights, and in particular to protect them from any discrimination in treatment, their right to resort to justice and their right to obtain identity cards [128].

A refugee means any person who is outside the country of his nationality or, in the case of a stateless person, outside his habitual residence and who has a reasonable fear of being persecuted for reasons of race, religion, nationality or membership of a social group, to avail himself of the protection of that country or to return to it.

A refugee also means any person who is compelled to take refuge in a country other than his country of origin or his habitual residence due to aggression against that country, occupation or foreign control over it, or to the occurrence of natural disasters or serious events resulting in a major disturbance of public order in all or part of the country [129].

([127]) Rule No. 11 of the Bangkok Rules.

([128]) Article 1 of the United Nations Convention relating to the Status of Refugees signed in Geneva on 28/7/1951, signed by Egypt by Presidential Decree No. 331 of 1980.

([129]) Article 1 of the Arab Convention for the Regulation of Refugees in the Arab Countries.

Everyone has the right to seek political asylum in another country to escape persecution, and this right does not benefit those who are tracked for a crime of public right, and political refugees may not be extradited[130].

The state may grant political asylum to any foreigner who has been persecuted for defending the interests of peoples, human rights, peace or justice, and the extradition of political refugees is prohibited, all in accordance with the law. ([131].

States Parties to the United Nations Convention relating to the Status of Refugees shall refrain from imposing penal sanctions, by reason of their illegal entry or presence, on refugees who enter or are present in their territory without authorization, coming directly from a territory where their life or freedom has been threatened, provided that they present themselves to the authorities without delay and demonstrate the reasons for their illegal entry or presence

States Parties shall also refrain from imposing unnecessary restrictions on the movements of these refugees, and such restrictions shall apply only until their status is settled in the country of refuge or until they are accepted in another country. The Contracting States shall grant the said refugees a reasonable period, as well as all the necessary facilities to obtain the admission of another country to enter it [132].

A refugee, whether a political refugee or a humanitarian refugee, has the right to move freely within Egypt, taking into account Egyptian laws. He also has the right to leave the country abroad, whether to his country or to another country at any time. The administration may not prevent foreigners from leaving Egypt except for a legitimate reason in accordance with the provisions of the Constitution and the law that justifies banning them from traveling [133].

The Cairo Declaration on the Protection of Refugees and Displaced Persons in the Arab World affirmed the fundamental right of every individual to move within his country or leave it to any other country and return to the country of origin freely [134].

([130]) Article 28 of the Arab Charter on Human Rights, which Egypt joined by Presidential Decree No. 429 of 2018.

([131]) Article 91 of the amended Constitution of the Arab Republic of Egypt of 2014.

([132]) Article 31 of the United Nations Convention relating to the Status of Refugees.

([133]) The Administrative Court ruled that: [In terms of the right of a foreigner who resides in Egypt legally, regardless of the reason for his residence, even if he is a political refugee or a humanitarian refugee, to move freely within Egypt, taking into account Egyptian laws that may prohibit foreigners from entering certain areas, and that he has the right to leave the country abroad, whether to his country or to another country at any time, and the administration may not prevent foreigners from leaving Egypt except for a legitimate reason in accordance with the provisions of the Constitution and the law that justifies preventing him from traveling. The aforementioned United Nations Convention relating to the Status of Refugees has affirmed the right of a refugee on humanitarian grounds who is lawfully resident to travel outside the State of refuge, and the obligation of the State in which he resides to issue a travel document to him if he does not have a travel document, unless the travel abroad conflicts with urgent reasons related to national security or the order of the nations in the State to which he has resorted, in the manner stipulated in Article (28) of the Convention] The ruling of the Administrative Court in Case No. 6961 of 69 S issued at the session of February 17 of 2015 (unpublished).

([134]) Article 1 of the Cairo Declaration on the Protection of Refugees and Displaced Persons in the Arab World.

The Declaration also stressed the importance of the principle of non-refoulement at the border or forcible return to the country where his life or freedom is feared as a peremptory norm of general international[135] law.

The declaration stressed that the granting of asylum in itself cannot be considered an unfriendly act towards any other country [136].

In cases not subject to the Convention, the Protocol or any other relevant instrument in force or to resolutions of the United Nations General Assembly, refugees, asylum-seekers and displaced persons shall enjoy the protection established as follows:

(a) the humanitarian principles of asylum in Islamic law and Arab values;

(b) Fundamental human rights norms established by international and regional organizations;

(c) Other principles of international law [137)]

The Declaration also stressed the need to provide special protection for women and children as one of the most numerous, affected and suffering groups of refugees and displaced persons.

The need to work to reunite the families of refugees and displaced persons [138].

The Administrative Court of Justice ruled that: [The current Egyptian Constitution followed the approach of previous constitutions and constitutional documents in establishing the state of law, whose protection of fundamental rights and freedoms is not limited to Egyptians only but is guaranteed by a human being on its territory, even if he is not an Egyptian. The Constitution guaranteed personal freedom, and it is dangerous for a person to be arrested, searched, imprisoned, or restricted in any way except by a reasoned judicial order required by the investigation, and the entry and residence of foreigners. The State has the authority to grant some foreigners the right of political asylum to protect them from the dangers that threaten them in their countries, in accordance with the text of Article (91) of the Constitution. This right was established for all States in accordance with a customary rule of international law. The legal framework governing the State's relationship with foreigners is not limited to what is stated in the internal legal rules issued in the State, but extends to include the rules contained in the international conventions that regulate to the State for the protection of human rights and other international conventions related to foreigners, which have the force of law after ratification and publication in accordance with the text of Articles 93 and 151 of the Constitution, and in accordance with the United Nations Convention relating to the Status of Refugees signed in Geneva on 28/7/1951, to which Egypt acceded and for which the force of law met, the State is obligated to protect foreigners who resort to it for humanitarian reasons due to war or fear of persecution due to political opinions,

([135]) Article 2 of the Cairo Declaration on the Protection of Refugees and Displaced Persons in the Arab World.

([136]) Article 3 of the Cairo Declaration on the Protection of Refugees and Displaced Persons in the Arab World.

([137]) Article 5 of the Cairo Declaration on the Protection of Refugees and Displaced Persons in the Arab World.

([138]) Article 10 of the Cairo Declaration on the Protection of Refugees and Displaced Persons in the Arab World.

and it has the duty to enable them to reside in its territory and to guarantee their fundamental rights during their stay. It is prohibited for the state to expel the refugee in any way to the state or territory in which his life or freedom is threatened because of race, religion, membership of a social group or political opinions. This prohibition includes the inadmissibility of extraditing the refugee to his country if extradition threatens his life and freedom. The Extradition Agreement concluded between the Arab League countries signed on June 9, 1953 1- which Egypt joined and has the force of law - regulated the provisions of extradition between the Arab countries members of the Convention, and the Convention was notified in Article 4 Extradition of criminals in political crimes, and assessing that the crime is political for the requested State.

In terms of the right of a foreigner who resides in Egypt legally, regardless of the reason for his residence, even if he is a political refugee or a humanitarian refugee, to move freely within Egypt, taking into account the Egyptian laws that may prohibit foreigners from entering certain areas. He also has the right to leave the country abroad, whether to his country or to another country at any time. The administration may not prevent foreigners from leaving Egypt except for a legitimate reason in accordance with the provisions of the Constitution and the law that justify his travel ban. The aforementioned United Nations Convention relating to the Status of Refugees affirmed the right of a refugee for humanitarian reasons who resides legally in Egypt to travel outside the country of refuge, and the obligation of the country in which he resides to issue a travel document to him if he does not hold a travel document, unless travel abroad conflicts with urgent reasons related to national security or the order of nations in the country to which he has sought refuge, as stipulated in Article (28) of the Convention[139] .

Unit 2: Internally Displaced Persons (IDPs)

IDPs are people who are forced or compelled to leave their homes and places where they usually reside and move to other places within the borders of the state of their nationality. The phenomenon of displacement has increased and has become a serious problem due to the increase in unrest, unrestricted violence and situations of internal armed conflict. The police have to protect the rights and freedoms of IDPs, especially while they are going through difficult times, and in a state of great material and moral vulnerability after being forced to leave their homes and properties. Therefore, they often need additional protection from crime and other human rights violations, and it is prohibited to arrest or detain them arbitrarily, and to exert all possible care to facilitate their return or resettlement and assist them in restoring their homes and properties.

Unit 3: Migrants

They are people who are in countries other than their own who are not refugees or asylum seekers and regardless of the reason that led these people to leave their countries of origin, they are

([139]) The judgment of the Administrative Court in Case No. 6961 of 69 S issued at the session of February 17, 2015 (unpublished).

entitled to special protection and care by the police because of the situation of vulnerability in which they are, which makes them vulnerable to exploitation and abuse, and potential victims of crimes such as human trafficking or forced prostitution.

In accordance with international standards, the State and its agencies have the responsibility to protect the lives and physical integrity of migrants, and to guarantee their other rights and freedoms, in particular their right to freedom of movement, movement and access to justice, and not to be unlawfully arrested or detained. Moreover, international law prohibits the collective expulsion of migrants, and individual expulsion may only be carried out by a decision of the competent authority in accordance with the law.

An important principle of international law that protects refugees and migrants is the principle of non-refoulement, to their own countries, or to any other country, if their return or deportation to that country would expose them to a violation of their fundamental rights and, in particular, if they are at risk of persecution, torture or other ill-treatment or arbitrary deprivation of liberty or life.

In general, the police must perform their tasks and duties in protecting society and applying the law, taking into account international standards and obligations related to the rights of migrants as a vulnerable group, as mentioned above. In particular, they must protect migrants from crime and xenophobic violence, treat them without discrimination, taking into account that they often lack the necessary knowledge of the language and laws of the country, and thus treat them as victims deserving assistance and not as criminals or outlaws.

Collective expulsions of foreigners are prohibited[140].

The African Charter on Human and Peoples' Rights also affirmed that an alien who has legally entered the territory of a State party to this Charter may not be expelled except by a decision in accordance with the law. It also prohibits the collective expulsion of aliens and the collective expulsion of those who target racial, ethnic and religious groups [141].

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families also affirmed that:

1- Migrant workers and members of their families shall not be subject to measures of collective expulsion and each expulsion case shall be considered and decided individually.
2- Migrant workers and members of their families may be expelled from the territory of a State Party only pursuant to a decision taken by the competent authority in accordance with law;

([140]) Article 4 of the Fourth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

([141]) Article 12 of the African Charter on Human and Peoples' Rights, signed by the Arab Republic of Egypt on 16 November 1981, by Presidential Decree No. 77 of 1984 issued on 27 February 1984 and published on 23 April 1992 in the Official Gazette.

3- They shall be notified of the decision in a language they understand and shall, at their request and where it is not mandatory, be notified of the decision in writing, as well as of the reasons on which the decision was based, except in exceptional cases required by national security, and the persons concerned shall be informed of these rights before the issuance of the decision or at the latest at the time of its issuance.
4- Except in the event of a final decision by a judicial body, the person concerned shall have the right to submit the reasons justifying his or her non-expulsion and to have his or her case reviewed by the competent authority, unless compelling reasons of national security otherwise require and pending review, the person concerned shall have the right to request a stay of the expulsion decision;
5- If an expulsion decision that has already been executed is subsequently annulled, the person concerned has the right to request compensation in accordance with the law and the previous decision may not be used to prevent him or her from returning to the State concerned;
6- In the event of expulsion, the person concerned shall be given a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him, and to settle any outstanding liabilities;
7- Without prejudice to the implementation of an expulsion decision, a migrant worker or any member of his or her family subject to such a decision may seek entry into a State other than a State of origin;
8- In the case of expulsion of a migrant worker or a member of his or her family, none of them shall bear the costs of expulsion and the person concerned may be required to pay his or her own travel costs;
9- Expulsion from the State of employment shall not in itself affect any rights of the migrant worker or a member of his family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him [142].

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families also affirmed that migrant workers and members of their families have the right to resort to the protection and assistance of the consular or diplomatic authorities of their State of origin or of the State representing the interests of that State, whenever the rights recognized in this Convention are affected. In particular, in the event of expulsion, the person concerned shall be notified of this right without delay, and the authorities of the expelling State shall facilitate the exercise of this right ([143]).

([142]) Article 22 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Egypt agreed to accede to it on 11 November 1991 by Presidential Decree No. 446 of 1991, published on 05 August 1993 in the Official Gazette.

([143]) Article 23 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Migrant workers and members of their families referred to in this part of the Convention may be expelled from the State of employment only on the grounds specified in the national legislation of that State and subject to the guarantees established in the Convention. Expulsion shall not be used as a means to deprive any migrant worker or member of his family of the rights arising from the residence permit and work permit. When considering the expulsion of a migrant worker or member of his family, humanitarian considerations and the length of time the person concerned has resided in the State of employment should be taken[144] into account.

Chapter 3: The Mission of the Police in the Prevention, Investigation and Detection of Crime

Crime prevention, investigation and detection is the core mission of police services in different countries.

Egyptian law places this task at the top of the list of tasks and duties entrusted to judicial officers in particular. Article 21 of the Code of Criminal Procedure stipulates that: "The judicial officer shall search for crimes and their perpetrators and collect the evidence necessary for investigation and lawsuit"[145].

Article 40 of the Anti-Terrorism Law also stipulates that: "When there is a danger from the dangers of the crime of terrorism and the need to confront this danger, the judicial officer has the right to collect evidence about it, search for the perpetrators and detain them for a period not exceeding 24 hours" ([146]).

The police's duty to prevent or detect crime requires them to take certain measures against those who have committed crimes or against those suspected of committing them. Here, the issue of the delicate balance arises between the duty of the police to prevent or investigate crime, and its duty to do so without prejudice to the rights of individuals guaranteed and protected by law. In all cases, the police should carry out its main function in preventing and detecting crime, taking into account the rules of international human rights law, which are binding on all countries, including Egypt, especially after these rules have become part of the Egyptian legal system.

Unit 1: Identifying Judicial Officers

Article 23 of the Code of Criminal Procedure amended by Law No. 26 of 1971 stipulates that:

([144]) Article 56 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

([145]) Article 21 of the Criminal Procedure Law.

([146]) Article 40 of the Anti-Terrorism Law promulgated by Law No. 94 of 2015 and amended by Law No. 11 of 2017.

A. Judicial officers in their jurisdictions shall be:

1- Members of the Public Prosecution and its assistants

2. Police officers, secretaries, constables and auxiliaries

3- Chiefs of police stations

4- Mayors, sheikhs of the country and sheikhs of the guards

5-Principals and agents of government railway stations

Provincial security directors and inspectors of the General Inspection Department of the Ministry of Interior may perform the work carried out by judicial officers in their areas of competence

B. Judicial officers throughout the Republic shall be:

1- Director and officers of the General Investigation Department at the Ministry of Interior and its branches in the security directorates

2- Directors of departments and sections, heads of offices, inspectors, officers, police secretaries, constables, assistants and police researchers working in the Public Security Department and in the criminal investigation divisions of the security directorates

3. Prison Service Officers

4- Director General of Railway, Transport and Transport Police and officers of this department

5- Commander and officers of the basis of the police camel

6- Inspectors of the Ministry of Tourism

By a decision of the Minister of Justice, in agreement with the competent minister, some employees may be granted the status of judicial officers for crimes that fall within their jurisdiction and are related to the work of their jobs.

The provisions contained in laws, decrees and other decisions regarding the assignment of some employees to the jurisdiction of judicial officers are considered decisions issued by the Minister of Justice in agreement with the competent minister[147] .

From the foregoing, it is clear that judicial officers are persons who have been granted this status by the legislator, according to them rights and imposing on them some duties related to criminal proceedings [148].

Judicial officers proceed to the procedural stage prior to the emergence of the criminal litigation, as it is the one who detects the occurrence of the crime and collects the necessary evidence to

([147]) Article 23 of Law No. 150 of 1950 - on the issuance of the Code of Criminal Procedure.

([148]) See: Principles of Criminal Procedure - Dr. Hassan Sadiq Al-Marsafawi, Professor of Criminal Law, Faculty of Law, Alexandria University - Lawyer at the Court of Cassation - Maarif Establishment in Alexandria - Last edition in 1981, page 249.

know the perpetrator and submit it to the Public Prosecution, in light of which the criminal case is initiated, whether by investigation or by submitting it directly to the court [149].

Therefore, the judicial control function is characterized by two elements:

1. It starts from the occurrence of the crime;

2- It is limited to making inferences about the crime, and then submitting its report to the Public Prosecution.

Control work means the set of work carried out by the public authority in order to achieve stability and public security, which is in essence the set of executive work of laws and regulations, and from this last meaning of control work, it is possible to distinguish between administrative control and judicial control.

Administrative control is carried out directly under the supervision of the administrative authority in order to prevent the occurrence of crimes, and this is achieved by orders and instructions issued to employees and other acts of preventive intervention to prevent the occurrence of crime. They take various means to achieve this purpose. They carry out various investigations using their agents from detectives, informants and guides and arrange patrols to monitor the security situation in the country day and night. They monitor suspects for fear of comparing crimes. Article 206 of the 2014 Constitution stipulates that: "The police is a regular civil body, in the service of the people, and its loyalty to it. It guarantees citizens reassurance and security, ensures the maintenance of public order and public morals, adheres to the duties imposed on it by the Constitution and the law, and respects human rights and fundamental freedoms. The state guarantees the performance of police officers' duties, and the law regulates the guarantees thereof."

The function of judicial seizure begins only when the administrative seizure fails to prevent the occurrence of the crime. Here, the judicial seizure begins to collect the evidence necessary to prove the crime and know the perpetrator to submit it to the authority charged with initiating the criminal case, which is the Public Prosecution. The function of judicial seizure is subject to the supervision of the judicial authority, unlike the function of administrative seizure, which is subject to the supervision of the administrative authority.

All members of the police force, including officers, soldiers and guards, are administrative officers. The legislator has explicitly considered some of them among the judicial officers and may grant this status to non-police officers. The law does not grant all administrative officers the status of judicial officers because giving them powers that affect the personal rights of individuals requires them, and this should be granted only to people with qualities and characteristics that

([149]) See the authority of intermediary judicial control in the Code of Criminal Procedure - Dr. Ahmed Fathi Sorour - Dar Al-Nahda Al-Arabiya 1985, p. 468.

reassure them of the proper use of these powers. Judicial officers are usually called the judicial police and administrative officers the administrative police.

Distinguishing between these two types of seizures is not easy, because judicial officers usually combine the two functions. For example, the traffic officer who tries to prevent traffic violations with the instructions he issues to drivers and bystanders is the one who controls what happens to traffic violations. The law has entrusted all police officers with the function of administrative control. As for the function of judicial control, it is limited to some police officers and is also carried out by other categories of employees. Just because a person is a police officer is not enough to grant him the status of judicial control, because it is related to the job and not to the military degree, the Court of Cassation ruled that: [Arresting a person means restricting his freedom and subjecting him by arresting and detaining him, even for a short period in preparation for taking some measures against him. Searching a person means searching and excavating his body and clothes with the intention of finding the thing to be seized. The law prohibits the arrest or search of any person except with his permission or with the permission of the competent investigating authority. It is not permissible for a policeman, who is not one of the judicial officers, to initiate either of these two procedures, and all that the law authorizes him, as a member of the public authority, to present the perpetrator in flagrante delicto crimes by applying the provisions of articles 37 and 38 of the Criminal Procedure Law and handing him over to the nearest judicial officer, and he is not entitled to conduct an arrest or search. Since the constant in the judgment indicates that the appellant was arrested only because the police officer suspected him, then his arrest and search were invalid[150].

The principle is that the status of judicial control is not acquired by all administrative officers, as the law has granted it exclusively to certain groups, and the judicial control officer is divided into two groups:

I. shall have the status of judicial police for all types of crimes, and shall be called judicial police officers with general jurisdiction;
II. It shall have the status of judicial seizure for a specific type of crime, and it shall be called judicial seizure officers with special jurisdiction.

The status of judicial seizure with general jurisdiction is granted under the Criminal Procedure Law or its supplementary laws. As for the status of judicial seizure with special jurisdiction, it is granted by a decision by the Minister of Justice in agreement with the competent minister.

Section 1: Judicial Officers with General Jurisdiction

Article 23 clarified the procedures of judicial bailiffs with general jurisdiction, and distinguished between two types of bailiffs: (the first) whose jurisdiction is limited to specific departments, (the second) whose jurisdiction extends to all parts of the Republic

([150]) Appeal No. 405 of 36 S issued on 16/5/1966 and published in Part 2 of the Technical Office's letter No. 17 page No. 613.

These two types are as follows:

Type 1:

1- Members of the Public Prosecution

2- Assistants, officers and secretaries of the police and constables

3. Chiefs of police stations;

4- mayors, sheikhs of the country and sheikhs of the guards;

5. State railway station superintendents and agents;

Governorate security directors and inspectors of the General Inspection Department of the Ministry of Interior may perform the work carried out by judicial officers in their jurisdictions.

If the judicial officers with general jurisdiction are limited to specific departments, the jurisdiction of the judicial officers is limited to the authorities in which they perform their functions per Article 23 of the Code of Criminal Procedure. If the officer falls outside his jurisdiction, he is considered one of the men of public authority referred to by the street in Article 38 of the Code of Criminal Procedure, and it is not permissible for the judicial officer to exceed his spatial jurisdiction except for necessity [151].

However, if the officer initiates the procedure in his spatial jurisdiction and the officer authorized to search encounters that requires the tracking of the accused authorized to seize and search his person, as if he had tried to escape outside his spatial jurisdiction, this is a sudden emergency circumstance that makes him exceed his spatial competence to control the crime as long as there are no other means to implement the seizure and search warrant, as it is not justified with these circumstances and the state of necessity that the judicial control officer stands handcuffed in front of the accused who is entrusted with his search just because he went outside the limits of his spatial jurisdiction[152].

Type 2:

1- Director and officers of the General Investigation Department at the Ministry of Interior and its branches in the Security Directorates;
2- Directors of departments and sections, heads of offices, inspectors, officers, police secretaries, constables, assistants and police researchers working in the Public Security Department and in the criminal investigation divisions of the security directorates;
3- Officers of the Department of Correction and Rehabilitation Centers, as Article No. 76 of the Law Regulating Correction and Rehabilitation Centers No. 396 of 1956 stipulates that: "The

([151]) See Appeal No. 1885 of 59 S issued on July 6, 1989 and published in the first part of the Technical Office's book No. 40 page No. 672 rule No. 114.

([152]) See: Appeal No. 37227 for the year 73 s issued in the session of 16 December 2004 and published in the letter of the Technical Office No. 55 page No. 824 rule No. 124.

directors of correction and rehabilitation centers, their agents and officers of the community protection sector shall have the status of judicial control officers, each within his jurisdiction." This requires that they have the duty, in accordance with the provisions of Articles 21, 24 and 29 of the Criminal Procedure Law, to search for crimes and their perpetrators in their jurisdiction, collect the evidence necessary for the investigation, and hear the statements of those who have information in criminal facts and question the defendants in them. They also have the duty to prove all the procedures they carry out in minutes signed by them[153] .

4- The Director General of the Railway, Transport and Communications Police and the officers of this department;
5- Commander and officers of the basis of the police camel;
6- Inspectors of the Ministry of Tourism.

These categories have the power of judicial control for all types of crimes, even if they are not related to the work of the functions they perform.

The constitutional legislator has entrusted the police, as a civilian statutory body, with the competence to maintain public security and ensure the maintenance of order and morals. This has been confirmed by the Police Authority Law and has made one of the most important competencies of this body to preserve lives, symptoms and funds, prevent and control crimes, and ensure tranquility and security throughout the country, which has an impact on the security of the citizen himself. To this end, the Code of Criminal Procedure has singled out in its provisions the means and methods by which men This body works with regard to the evidence-gathering stage. The legislator has singled out this stage with many characteristics, the most important of which is that the means and methods taken by the judicial officers in the field of maintaining the security of the citizen, and access to the perpetrators of crimes are not mentioned exclusively, but that the Code of Criminal Procedure mentioned the most important and most frequent at work, and did not prohibit others, because the essence of the evidence-gathering process, which is the "information-gathering" stage, is reluctant to list, and every work that would collect this information to achieve the purpose of the evidence is permissible for the judicial officer as long as it is within the legal framework and the purpose of all this is access to confirmed information about the reported crimes, including It saves the money and lives of citizens, but the Court of Cassation has expanded in this sense in order to reach the judicial officers to the truth by saying that [there is no reproach on the bailiff to fabricate within these limits what he means to detect the crime and does not clash with the morals of the group][154] .

([153]) See: Appeal No. 370 of 31 S issued at the session of June 13, 1961 and published in the second part of the book of the Technical Office No. 12 page No. 698 rule No. 134.

([154]) See: Judgement of the Administrative Court in Case No. 16831 of 60 BC issued at the session of 27 February 2007, page No. 514.

Section 2: Judicial Officers with Special Jurisdiction

The competence of these persons is limited to crimes related to the work of their jobs, for example, organization engineers, governorate health inspectors and their assistants, department and center health inspectors, food inspectors, food inspectors, director of the amusement park department and its inspectors, director of the commercial registry department, agent and inspectors of this department, heads of commercial registry offices, employees appointed by the Minister of Social Affairs to verify the social status of the minor accused, coast guard men, some customs officials, and members of administrative control [155].

The Court of Cassation ruled that the legislator conferred on the members of the administrative control the status of judicial control for all crimes committed by workers or non-workers as long as those acts attributed to the accused aim to prejudice the proper performance of the duties of the public office [It is scheduled that Article 23 of the Code of Criminal Procedure after it appointed employees who are considered judicial control officers and authorized the Minister of Justice, in agreement with the competent minister, to authorize some employees in that capacity with regard to crimes that occur in their areas of competence and are related to the work of their jobs. In its last paragraph, the provisions contained in laws, decrees and other decisions regarding the assignment of some laws to the jurisdiction of judicial officers are considered as decisions issued by the Minister of Justice in agreement with the competent minister. Article 61 of the Presidential Decree by Law No. 54 of 1964 to reorganize administrative control, as amended by Law No. 71 of 1969, stipulates that: "The head of administrative control, his deputy, other members of the control and those assigned to serve as a member of the control shall have the authority of judicial control throughout the United Arab Republic, and in order to exercise their powers, they shall exercise all the powers granted to them. The judicial enforcement capacity prescribed for some employees in their areas of competence», and the Supreme State Security Prosecution issued the order to record the conversations from the Supreme Judicial Council after it had contacted the investigation report and assessed its sufficiency to justify that procedure, is an act of investigation, whether it subsequently carried out the order itself or through the assignment of any of the judicial enforcement officers to implement it pursuant to the text of Article 200 of the Code of Criminal Procedure, which allows each of the members of the Public Prosecution in the event of conducting

([155]) In this regard, the Court of Cassation ruled that: [Whereas it is clear from the minutes of the trial session that the appellant's defender pushed for the invalidity of his arrest because the judicial officer exceeded his territorial jurisdiction, and the contested judgment responded to this plea by saying: "It is nothing more than an objective argument that the court pays attention to, reassuring it of the evidence of proof provided by the Public Prosecution in the lawsuit." Whereas, the principle is that the jurisdiction of judicial officers is limited to the parties in which they perform their functions in accordance with Article 23 of the Criminal Procedure Law, and if the sheriff falls outside his jurisdiction, he is considered one of the men of public authority referred to by the street in Article 38 of the Criminal Procedure Law, and that it is not permissible for the judicial officer to exceed his spatial jurisdiction except for necessity, and what was stated in the contested judgment in the foregoing does not face the appellant's defense in this regard, which is a fundamental defense that the court must present to him and respond to him with acceptance or rejection with justifiable reasons, the contested judgment is tainted with deficiencies, which must be overturned and returned without the need to examine the rest of the aspects of the appeal] Appeal No. 59283 of 73 Q issued at the session of February 21, 2010 and published in the Technical Office's book No. 61, page 155, rule No. 23..

the investigation himself to assign any of the judicial enforcement officers some of the work that is within his competence for the foregoing, the law has given the members of the administrative oversight the status of judicial enforcement for all crimes committed by workers or non-workers as long as those acts attributed to the accused aim to prejudice the safety of the performance of the duties of the public office, which has been achieved in the current lawsuit for the appellant, and therefore what it means in this regard is not based on][156].

Section 3: Assistants of Judicial Officers

The judicial police officer may seek the assistance of whomever he deems necessary in conducting the seizure and search as long as he works under his supervision. However, police officers, such as soldiers, guards, and informants of judicial police officers, do not enjoy the status of judicial seizure. However, Article 24 of the Code of Criminal Procedure empowered them with a part of the power of inference, which is to obtain all clarifications and conduct the necessary inspections to facilitate the investigation of the facts that are reported to them, that is, they know of them in any way, and that they must take all necessary precautionary means to preserve the evidence of the crime [157].

In this regard, the Court of Cassation ruled that: [The requirements of work require the judicial officer, if he is absent from his workplace for doing another job, to issue a general order to assist him to take the necessary evidentiary measures in his absence, in order to preserve the freedoms of people that the law wanted to preserve] [158].

The absence of judicial control over them results in the following:

1- The Public Prosecution may not assign them for investigation;
2- They may not initiate the evidentiary procedures granted by law with the exception of judicial officers in the event of flagrante delicto, such as arrest and search, unless this is done under their supervision and control, otherwise the procedures are invalid and all they have is to bring the perpetrator of the flagrante delicto and hand him over to the nearest judicial officer [159].

([156]) Appeal No. 6202 of 79 s issued at the session of February 21, 2010 and published in the letter of the Technical Office No. 61 page No. 158 rule No. 24, Appeal No. 30639 of 72 s issued at the session of April 23, 2003 and published in the letter of the Technical Office No. 54 page No. 583 rule No. 74.

([157]) See: Appeal No. 6202 of 79 s issued at the session of February 21, 2010 and published in the letter of the Technical Office No. 61 page No. 158 rule No. 24, Appeal No. 30639 of 72 s issued at the session of April 23, 2003 and published in the letter of the Technical Office No. 54 page No. 583 rule No. 74.

([158]) Appeal No. 1881 of 29 S issued on 14/6/1960 and published in Part 2 of the Technical Office's letter No. 11 page No. 579.

([159]) Appeal No. 405 of 36 S issued on 16/5/1966 and published in Part 2 of the Technical Office's letter No. 17 page No. 613 , rule No. 110.

In this regard, the Court of Cassation ruled that: [The judicial officer may seek the assistance of his subordinates in the execution of the search warrant issued by a superior, even if they are not judicial officers] [160].

The Court of Cassation also ruled that: [The judicial officer authorized to search, although he may seek the assistance of his subordinates in the implementation of the permission, even if they are not judicial officers, but this is conditional on the seizure and inspection procedures being carried out under his control and supervision. If what the judgment proves is clear that the search and seizure carried out by the informant was not under the supervision of the officer authorized to search, then the conclusion of the judgment of accepting the nullity of the search that resulted in the seizure of "cannabis" is correct in the law.] In the same ruling, it ruled that: [The informant's illegal entry into the house of the accused is not corrected by the order issued to him by his chief officer authorized to search the house, on the pretext of seizing the person required to be searched for the purpose of inspection because this order is outside the scope of the legally authorized acts due to its violation of the sanctity of homes, which calls this procedure nullity, which extends to the result of the seizure][161].

It also ruled that: [The order issued by the officer to some members of the force accompanying him to seize the family members of the accused who are authorized to search his person, his house and those who are with them, is a procedure intended to establish order in the place where the judicial officer entered until the task for which he came is completed, as this procedure is one of the organizational procedures required by the circumstances of the case to enable him to perform the task entrusted to him][162].

It also ruled that: [The law includes judicial police officers in Article 23 of the Code of Criminal Procedure exclusively, and it does not include their subordinates such as police officers and informants. They are not considered judicial police officers and their performance of the work of their superiors does not give them an authority that the law did not grant them. All they have, according to Article 24 of the Code of Criminal Procedure, is to obtain all the clarifications and conduct the necessary inspections to facilitate the investigation of the facts that are reported to them and to take the necessary precautionary means to preserve the evidence of the crime, not arrest and search. Therefore, bringing an accused to the police station does not entitle Al-Jawish Al-Nubtaji to arrest or search him][163].

([160]) Appeal No. 757 of 37 S issued on 19/6/1967 and published in Part 2 of the Technical Office's letter No. 18 page No. 838.

([161]) Appeal No. 1391 of 29 S issued in the session of 18/1/1960 and published in Part 1 of the Technical Office's letter No. 11 page No. 79.

([162]) Appeal No. 93 of 36 S issued on 21/2/1966 and published in Part 1 of the Technical Office's letter No. 17, page No. 175.

([163]) Appeal No. 2 of 26 S issued on 24/4/1956 and published in Part 2 of the Technical Office's letter No. 7 page No. 659.

The law does not necessarily require that the judicial officer personally monitor the persons investigated, or have previous knowledge of them, but rather that he may use his investigations or research, or the means of inspection taken by his aides from the public authority, guides, and those who inform him of the crimes that have already occurred, as long as he is personally convinced of the validity of what they have transferred to him, and the truth of the information he received, and the procedures were not defective that the personality of the guide remains unknown, and the judicial officer who chose him does not disclose them to help him in his mission [164].

3- They are under the supervision of their superiors, and not under the supervision of the Attorney General, as is the case with judicial officers [165].

Officers working in national security have the capacity of judicial officers. Article 23 of the Code of Criminal Procedure, as amended by Law No. 26 of 1971, has granted officers working in the Public Security Department and in the criminal investigation divisions of the security directorates, including officers of the National Security Sector at their various ranks, the power of control in general and comprehensive, which means that it is within their jurisdiction to control all crimes as long as the Code of Criminal Procedure, when it confers on them the status of judicial control, does not want to restrict them in any way or limit the Their mandate is limited to a certain type of crimes for considerations of public interest, and the mandate of criminal investigation officers was a general jurisdiction sourced from the text of Article 23 of the Criminal Procedure Law, which ensured the enumeration of those considered among the judicial officers. This jurisdiction, by origin, applies to all crimes, even those that have been assigned to special offices, because it is decided that conferring the status of judicial control on an employee in relation to certain crimes does not mean in any way depriving that status in regard to these same crimes from the judicial officer with general jurisdiction [166].

Article 23 of the Code of Criminal Procedure also gave police secretaries the power to police in their areas of competence, which means that it is within their jurisdiction to control all crimes, as long as the Code of Criminal Procedure, when it gave them the status of judicial control, did not want to restrict it to them in any way except by spatial jurisdiction, so it did not limit their mandate to a specific type of crime for considerations of public interest. This jurisdiction, according to the original, extends to all types of crimes, even those that have been allocated special offices, because it is decided that conferring the status of judicial seizure on an employee in respect of certain crimes does not mean at all the deprivation of that status in respect of these crimes from judicial officers with general jurisdiction, and this consideration does not affect what was included in the decision of the Minister of the Interior to organize the Public Security Department and determine

([164]) See: The judgment of the Court of Cassation in Appeal No. 41816 of 85 S issued at the session of May 2, 2017 (unpublished).

([165]) Article 22 of the Criminal Procedure Law.

([166]) See Appeal No. 61 of 88 S issued at the 25th session of November 2018 (unpublished), Appeal No. 41132 of 85 S issued at the 24th session of December 2016 (unpublished), Appeal No. 24908 of 84 S issued at the 10th session of October 2015 (unpublished).

the jurisdiction of each department. It is purely an organizational decision that does not affect the provisions of the Code of Criminal Procedure and does not entitle the Minister of the Interior to issue decisions granting the status of judicial seizure or depriving or restricting this status from any of what has been granted They have the law for a certain type or types of crimes [167].

The Court of Cassation ruled that: [It does not affect the integrity of the investigations to be carried out by an officer of the National Security because of the lack of judicial enforcement status, as the explicit text of Article 23 of the Code of Criminal Procedure "shall be one of the judicial enforcement officers in their jurisdictions 1..... 2. Police officers and secretaries....." The decision of the Minister of Interior No. 445 of 2011 stipulated that "Article (1) The State Security Investigation Sector shall be abolished..... A new sector is being established under the name of the security sector..... It is competent to maintain national security and cooperate with the agencies of the concerned countries to protect and protect the integrity of the home front, collect information and combat terrorism per the provisions of the Constitution and the law....." Which means that the abolition of the State Security Investigation Service by the decision of the aforementioned Minister of Interior did not deprive the workers of the national security sector of their status as officers Police were keen to explicitly stipulate this by the inability of Article 2 of the aforementioned decision to promote the work of the National Security Sector by officers selected from among the police officers based on the nomination of the sector. Therefore, the members of the sector are police officers who have the status of judicial officers in their areas of competence under the text of the second paragraph of Article 23 of the aforementioned Criminal Procedure Law, which provides them with the status of judicial bailiffs who are functionally competent in the departments of the governorate in which they work. In addition to the foregoing, what was included in the aforementioned decision of the Minister of Interior regarding the establishment of the National Security Sector is purely a statutory decision that does not include anything that affects the provisions of the Criminal Procedure Law and does not entitle the Minister of Interior to issue decisions granting the status of judicial officers or robbery Or restricting this capacity from a specific officer for a specific type or types of crimes. Article 3 of the articles of the issue in Law No. 109 of 1971 regarding the Police Authority System has only empowered the Minister of Interior to issue the necessary decisions to implement its provisions, which are all statutory provisions that have nothing to do with the provisions of judicial control that the Code of Criminal Procedure guarantees its organization. The investigations conducted by the National Security Officer and his seizure and search of the appellants and the rest of the defendants are valid, and the judgment after omitting the statement of the specific and spatial competence of the officer is not defective, as there is nothing in the law that requires mentioning this statement coupled with his testimony because the origin in the procedures is valid and the judicial officer carries out his work within the

([167]) See: Appeal No. 21347 of 73 S issued at the 26th session of May 2010 and published in the Technical Office's letter No. 61, page No. 423, rule No. 54, Appeal No. 1421 of 55 S issued at the 30th session of May 1985 and published in the first part of the Technical Office's letter No. 36, page No. 736, rule No. 129.

limits of his jurisdiction, which the appellants did not deny or dispute before the trial court, and then the appellants in this regard are not valid[168].

It also ruled that: [The mandate of officers of the Criminal Investigation Division is a general jurisdiction originating from the text of Article 23 of the Code of Criminal Procedure, which ensured the enumeration of those considered among the judicial officers. This jurisdiction, by origin, extends to all types of crimes, even those that have been assigned to special offices, because it is established that conferring the status of judicial control on an employee in respect of certain crimes does not mean in any way stripping that status in respect of these same crimes from the judicial officers with general jurisdiction][169].

The Court of Cassation also ruled that: [Officers working for the Public Security Department and in the Criminal Investigation Divisions of the Security Directorates have the power of control in general and comprehensive, and therefore it is within their jurisdiction to control all crimes as long as the Criminal Procedure Law, when it conferred on them the status of judicial control, did not want to restrict them to any restriction or limit their mandate, limiting them to a specific type of crimes for considerations estimated in the public interest and that jurisdiction according to the origin, but applies to all types of crimes, even those that have been allocated special offices][170] .

The conferring of the status of judicial control on an employee with regard to certain crimes does not mean at all the deprivation of that status with regard to these same crimes from the police officers with general jurisdiction [171].

It also ruled that: [It is decided that it does not affect the integrity of the procedures for arresting and searching the appellant, which is a procedure for inferring that the person who carried it out is not a customs officer, because the Lieutenant Colonel..... The detective officer of the Suez Port Police, who arrested and searched the appellant from the judicial officers who were granted by Article 23 of the Criminal Procedure Law, within the limits of their competencies, the power of control in general and comprehensive, which means that his jurisdiction extends to all types of crimes, including the crime of attempting to smuggle attributed to the appellant. This does not change the granting of special judicial enforcement status in respect of that crime to some customs officers in accordance with the provision of Article 25 of the Customs Law promulgated by Law No. 66 of 1963, as it is decided that conferring judicial control on an employee in respect of certain

([168]) Appeal No. 21976 of 87 S issued at the session of 17 November 2018 (unpublished).

([169]) Appeal No. 52720 of 72 S issued at the session of 17 November 2009 and published in the letter of the Technical Office No. 60 page No. 463 rule No. 62.

([170]) Appeal No. 4042 of 87 S issued at the session of January 20, 2018 (unpublished), Appeal No. 2510 of 61 S issued at the session of December 3, 1992 and published in the first part of the book of the Technical Office No. 43 page No. 1110 rule No. 173.

([171]) See Appeal No. 1890 of 81 s issued at the session of May 3, 2012 (unpublished), Appeal No. 3934 of 58 s issued at the session of November 10, 1988 and published in the first part of the Technical Office letter No. 39 page 1044 rule No. 157, Appeal No. 4437 of 56 s issued at the session of December 10, 1986 and published in the first part of the Technical Office letter No. 1016 rule No. 195, Appeal No. 1740 of 55 s issued at the session of October 21, 1985 and published in the first part of the Technical Office letter No. 36 page 909 rule No. 164..

crimes does not mean at all the deprivation of that status in respect of these same crimes from the judicial officers with general jurisdiction[172].

The decision of the Minister of Justice to confer judicial control on some employees for crimes that fall within their jurisdiction and are related to the work of their jobs is an administrative decision that is subject to appeal before the Council of State [173].

Unit 2: The subordination of judicial officers to the Attorney General

Article 22 of the Code of Criminal Procedure stipulates that: "Judicial officers shall be subordinate to the Attorney General and subject to his supervision in connection with the work of their office.

The Public Prosecutor may request the competent authority to consider the matter of anyone who violates his duties or fails in his work. He may request the filing of a disciplinary lawsuit against him, and all of this does not prevent the filing of a criminal lawsuit.

The mere supervision of the prosecution over the work of the judicial officers and the disposal of the evidence-gathering minutes that they conduct in accordance with their functions, without an explicit mandate from the prosecution, does not change the status of these minutes as evidence-gathering minutes[174].

Unit 3: Duties of Judicial Officers

Article 21 of the Criminal Procedure Law stipulates that: "The judicial officer shall search for crimes and their perpetrators and collect the evidence necessary for investigation and lawsuit."

The Constitution has entrusted the police as a civilian statutory body with the competence to maintain public security and ensure the maintenance of order and morals. This has been confirmed in the sense of the Police Authority Law and has made one of the most important competencies of this body to preserve lives, symptoms and funds, prevent and control crimes and ensure tranquility and security throughout the country, which has an impact on the security of the citizen himself. To this end, the Code of Criminal Procedure has singled out in its provisions the means and methods by which the men of this body practice Their work regarding the evidence-gathering stage. The legislator has singled out this stage with many characteristics, the most important of which is that the means and methods taken by the judicial officers in the field of maintaining the security of the citizen, and access to the perpetrators of crimes are not mentioned exclusively, but that the Code of Criminal Procedure mentioned the most important and most frequent in the work, and did not

([172]) Appeal No. 2552 of 59 S issued in the first session of October 1, 1989 and published in the first part of the book of the Technical Office No. 40 page No. 709 rule No. 119, Appeal No. 3955 of 57 S issued in the session of June 16, 1988 and published in the first part of the book of the Technical Office No. 39 page No. 816 rule No. 122.

([173]) See the judgments issued by the Administrative Court at the 26th session of June 2012 in cases Nos. 46266, 46269, 46272, 46282, 46337, 46435, 46447, 46503, 46509, 46510, 46554 (unpublished).

([174]) See: Appeal No. 1999 for the year 25 S issued at the session of March 19, 1956 and published in the first part of the book of the Technical Office No. 7 page No. 369 rule No. 109..

prohibit others, because the essence of the evidence-gathering process, which is the stage of "collecting information", is reluctant to limit, and every work that would collect this information in order to achieve the purpose of evidence is permissible for the judicial officer as long as it is within the legal framework and the purpose of all this is to access to confirmed information about the reported crimes in a way that preserves Citizens' money and lives, but the Court of Cassation has expanded in this sense in order to reach the judicial officers to the truth by saying that [there is no reproach on the bailiff to fabricate in those limits of the means of ingenuity up to his intention to detect the crime and does not clash with the morals of the group][175] .

Judicial officers and their subordinates must obtain all clarifications and conduct all necessary investigations to facilitate the investigation of the criminal facts reported to them or announced by any means whatsoever, and they may take all precautionary means to be able to prove those facts, and every action taken in this way is considered correct and productive of its effect as long as it does not interfere with the creation of the crime or incitement to its corruption and as long as the will of the appellant remains free [176].

There is no reproach on the police officer to fabricate within these limits of the ingenious means that are smooth for his intention in detecting the crime and do not clash with the morals of the group and the traditions of society, as long as there is no incitement from them to commit this

([175]) See the ruling of the Administrative Court in Case No. 16831 of 60 BC issued at the session of 27 February 2007, page No. 514.

([176]) See: Appeal No. 21459 of 67 s issued at the session of November 9, 1999 and published in the first part of the Technical Office book No. 50 page No. 559 rule No. 126, Appeal No. 1902 of 62 s issued at the session of January 2, 1994 and published in the first part of the Technical Office book No. 45 page No. 37 rule No. 1, Appeal No. 696 of 58 s issued at the session of December 1, 1988 and published in the second part of the Technical Office book No. 39 page No. 1159 rule No. 181, Appeal No. 3536 of 52 s issued at the session of December 8, 1982 and published in the first part of the Technical Office book No. 33 page No. 962 rule No. 199.

In this regard, the Court of Cassation ruled that : [If it is established from the judgment that the appellant nodded to the officer from the beginning what he should have approached him directly without the interference of the other accused who delivered him and guided him to him - to overcome the obstacles to the passage of the car, which the court rightly interpreted as a gesture by the appellant that he was willing to overlook the customs violation in exchange for the money he was given, and then bargaining over the amount of the bribe and actually arresting him and seizing some of it in his pocket, and that all this happened at a time when the appellant's will was free, and his slide to compare the crime was born of a full will, so it is true that the judgment concluded that incitement to commit the crime was not committed by the two judicial officers] Appeal No. 984 of 29 Q issued at the session of 1 December 1959 and published in the third part of the Technical Office's book No. 10, page 970, rule No. 199.

It also ruled that [when it is established from the records of the contested judgment that the officer has moved with the policeman ..... To the place appointed by the first appellee to receive the drug from the second appellee, in implementation of the agreement concluded between them, and the latter actually provided the drug to the policeman mentioned, and the officer then arrested him, and then the officer and the policeman moved the jailer to the prison and the drug was handed over to the first appellee, and it was the task of the seizure officer under Article 21 of the Criminal Procedure Law to uncover the crimes and reach a punishment for their perpetrators, as every action he takes in this way is considered correct and productive of its effect, as long as he did not interfere with his act in creating the crime or inciting its dissolution, and as long as the will of the perpetrator remained free and not nonexistent, and the judgment when he ruled to accept the payment and nullify the search had omitted exposure to this evidence independent of the procedures that he ruled invalidated, it, it is flawed, which necessitates its reversal] Appeal No. 1830 of the year 39 issued in the session of March 2, 1970 and published in the first part of the Technical Office's book No. 21 page 334 rule No. 83..

crime, including concealment, impersonation of qualities and fabrication of guides, even if their matter is kept an anonymous secret[177].

([177]) See: Appeal No. 7290 of 79 S issued at the hearing of July 7, 2011 (unpublished), Appeal No. 11971 of 59 S issued at the hearing of April 19, 1990 and published in Part I of Technical Office Letter No. 41 Page 640 Rule No. 110, Appeal No. 3385 of 56 S issued at the hearing of October 15, 1986 and published in Part 1 of Technical Office Letter No. 37 Page 769 Rule No. 147, Appeal No. 365 of 56 S issued at the hearing of April 16, 1986 and published in the first part of the Technical Office letter No. 37 page 483 rule No. 98, Appeal No. 4188 of 54 S issued at the hearing of February 26, 1985 and published in the first part of the Technical Office letter No. 36 page 306 rule No. 52, Appeal No. 111 of 39 S issued at the hearing of March 17, 1969 and published in the first part of the Technical Office letter No. 20 page 335 rule No. 73, Appeal No. 310 of 38 S issued at the hearing of April 15, 1968 and published in the part Second of Technical Office Book No. 19 Page No. 438 Rule No. 83

The Court of Cassation also ruled that [since it was established from the papers that the incident officer went to the whereabouts of the accused after his confidential source informed him that the accused wanted to sell a quantity of cannabis plant Once he knew the accused, he voluntarily brought the latter to him and chose two rolls of sticky paper open from the middle and containing the cannabis plant. Therefore, the appearance of the drug in the possession of the accused in this way is considered a flagrante delicto for the crime of acquiring the drug in circumstances other than those authorized by law, justifying the arrest, seizure and search procedures taken by the incident officer with the accused, which provides the case of flagrante delicto by watching the crime as it is committed in the text of Article 30 of the Code of Criminal Procedure. Therefore, there is no need or necessity to obtain a permit from the Public Prosecution to arrest and search the accused as long as he was caught and the crime is legally flagrante delicto, with which the payment is not supported by reality or the law worthy of rejection. "The response of the judgment to the appellant's defense in this regard was sufficient and the conclusion of his dismissal is correct. The appellant in this regard is misplaced.] Appeal No. 1739 For the year 81 S issued in the session of April 10, 2013 (unpublished).

The Court of Cassation also ruled that: [Since the role of the judicial officer in the impugned judgment is what makes his action a legitimate procedure, it is valid to take the accused as a result when the court is assured of its occurrence, because the arresting officer's presence of his desire to buy foreign currency from the appellee does not create or incite to the crime, and therefore the impugned judgment, as the evidence derived from what the appellee voluntarily disclosed from his dealings in foreign currency contrary to the terms and conditions prescribed by law, is unsupported by reality or the basis of the law, which is defective] Appeal No. 3679 of 56 S issued at the session of November 2, 1986 and published in the first part of the Technical Office's book No. 37 page No. 812 rule No. 157.

The Court of Cassation ruled that: [If the judgment had clarified, within the limits of its discretion, in response to the plea that the bringing of the drug was instigated by the police officers, that the role played by the police officer did not exceed the transfer of information regarding the date of sailing of the boat with the shipment of the drug and its arrival with the signs of delivery and receipt in order to reveal the crime that occurred at the will and choice of the appellants, then preventing them from ruling regarding his rejection of this plea would be misplaced.] Appeal No. 211 of 46 s issued at the session of 23 May 1976 and published in the first part of the Technical Office's letter No. 27 page No. 527 rule No. 117.

It also ruled that: [It is the task of the police to uncover the crimes and reach the punishment of the perpetrators. Every action taken by his men in this way is considered correct as long as they did not interfere in the creation of the crime by fraud, deception or incitement to its falsification. It is not correct to blame the police for the actions taken after reporting it to the father of the kidnapped child, handing him over to the amount under police supervision and observation, and developing a seizure plan. [Appeal No. 561 of 29 S issued on April 27, 1959 and published in the second part of the Technical Office's letter No. 10, page No. 487, rule No. 106

It ruled that: [Whereas, the image of the incident as stated in the judgment in its blogs was that the seizure of the drug that was in the possession of the appellant was carried out following his voluntary abandonment of the bag containing the scrolls and the capture of the first witness, and it was found by him and the other witness that the heroin inside followed the accused and his arrest and what the judgment proved in this way provides the case of flagrante delicto of the crime of obtaining a drug by the presence of external manifestations that foresee the occurrence of the crime, which legally justifies the arrest of the appellant, and the contested judgment violated the previous consideration and invalidated the evidence derived from the seizure of the drug in the event of his possession and ruled the acquittal on the basis of saying that the absence of the state of flagrant delicto based on the fact that it was not proven from the testimony of the two witnesses that either of them was found to be the seized drug while inside the bag thrown by the appellant contrary to what he mentioned above, he violated the fixed in the papers and involved corruption in the inference of the inference] Appeal No. 58 of the year 66 issued in the session of November 17, 2005 and published in the technical book No. 564, rule No. 91.

The investigation by the Public Prosecution does not require the failure of the judicial officers to carry out their duties at the time the prosecution begins its work, and it is limited at that time that the minutes due to those officers to be edited by what their research reached are sent to the prosecution to be an element of the lawsuit that the prosecution achieves what it deems necessary to achieve from it, and the court may base the judgment on what is stated in these minutes as long as it has been presented with the rest of the lawsuit papers to the examination and investigation before it in the session [178].

Section 1: The powers of the police to arrest, detain or arrest

We have previously detailed the basic rights and guarantees established in international human rights law and the Egyptian legal system for the protection of persons deprived of their liberty or detained by the police on suspicion of violating laws and regulations.

On more than one occasion, we have said that it is the responsibility of the police during arrest and in places of detention to balance those rights and guarantees with their duties in implementing the law, especially in cases where they may have to use force or firearms.

Here, again, the police must adhere to the four principles that govern all their actions and procedures, that is, adhere to the principles of legality, necessity, proportionality and accountability in case of violation.

Specifically, with regard to places of detention, the use of firearms should be limited to maintaining security within those places, and also to cases in which there is a serious and imminent threat to life, that is, in the case of self-defense or defense of others against the direct threat of death or serious injury or when it is absolutely necessary to prevent the escape of a person from detention.

Prison officials are often advised not to carry firearms, and to restrict their use to exceptional circumstances. Restraints (such as handcuffs, chains, handcuffs, etc.) should only be used for preventive security purposes and not as a means of punishment.

In general, in all cases where the police decide to arrest or detain persons, given the availability of sufficient legal grounds to do so, the extent to which there is an "actual necessity" to carry out the arrest or detention must be assessed. If other means are found to achieve the purpose, it is better to resort to them rather than to restriction of liberty. For example: Taking action: withdrawing the passport of a specific person may be sufficient to prevent him from fleeing the country, collecting and documenting evidence in a timely manner may prevent the accused person from destroying it, and so on.

It is a matter that deserves the attention of the police, that in the implementation of arrest and detention procedures, nothing harms the reputation of the person, such as arresting him at his workplace, or in front of the public, and of course, unless necessary otherwise, it is taken for

([178]) See: Appeal No. 1629 of 28 S issued at the session of January 5, 1959 and published in the first part of the book of the Technical Office No. 10 page No. 5 rule No. 2.

granted that the arrest or detention must be legally justified, and commensurate with the goal that the police seek to achieve (such as the reason for the arrest is a crime of a certain level of seriousness that does not allow the suspect to be left at large).

In all cases, all police actions in arrest and detention must be subject to the principle of accountability, whether with regard to the validity of legal reasons, the validity of procedures, adherence to the legally specified periods, or in terms of the authority of persons and the validity of their authorization to do so. It has already been mentioned that the failure to observe the legal rights and guarantees of suspects or detainees converts the incident of detention from a legitimate to an illegal procedure, and the arrest or detention becomes arbitrary.

If the police decide to use force or shoot to arrest a person suspected of violating the law, this must be in accordance with international and national controls and standards for the use of force and firearms, the most important of which - in such cases - is that the person to be arrested represents a danger to the lives of others or to the lives of the police officers themselves. When the potential damage resulting from the use of force and firearms in the arrest is greater than the legal interest to be achieved, the police must refrain from arresting or postpone it to another time.

It is also worth mentioning here the importance of training and qualifying police personnel to deal with situations that may call for resorting to force or shooting, as such situations often occur unexpectedly and as a result of the escalation of a particular situation, and this means that police personnel must be prepared in advance to face all possibilities, and in a manner consistent with reality, to enable them to make sound, immediate and consistent decisions in accordance with legal standards.

At the end of this presentation, we are reminded, once again, that the use of force or shooting by the police in places of detention should be limited to cases of self-defense, preventing the escape of detainees or prisoners, or resisting the implementation of legal orders, all taking into account the basic principles of legality, necessity, proportionality and accountability.

It should also be recalled that, in accordance with international and national standards, every person who has been arbitrarily arrested or detained, whose rights have been violated or who has been tortured while in police custody is entitled to full reparation, in addition to apology and reparation, and punishment of those responsible.

Section 2: Inference procedures

The Code of Criminal Procedure singled out in its provisions the means and methods by which police officers carry out their work in relation to the evidence-gathering stage. The legislator singled out this stage with many characteristics, the most important of which is that the means and methods taken by judicial officers in the field of maintaining the security of the citizen, and access to the perpetrators of crimes are not mentioned exclusively, but the Code of Criminal Procedure mentioned the most important and most frequent of them at work, and did not prohibit others, because the essence of the evidence-gathering process, which is the stage of "information-

gathering", refuses to be limited, and every work that would collect this information to achieve the purpose of the evidence is permissible for the judicial officer as long as it is within the legal framework and the purpose of all of accessing confirmed information about the reported crimes in a way that preserves the funds and lives of citizens, but the Court of Cassation has expanded in this sense in order to reach the truth by saying that it [does not impress the officer to fabricate within those limits of ingenuity what is intended to detect the crime and does not clash with the morals of the group][179] .

It is not permissible for the judicial officer, while carrying out the task of searching for crimes and their perpetrators and collecting the evidence necessary for investigation and lawsuit against the requirements of Articles 21 and 29 of the Code of Criminal Procedure, to torture the accused to make him confess to a crime. If he tells himself to torture that accused to make him confess, whatever the motive, he is subject to the punishment stipulated in Article 126 of the Penal Code ([180].

The evidentiary procedures are as follows:

1. Investigations;
2. Receive communications and complaints;
3. Obtaining clarifications;
4. Collecting physical evidence;
5. Precautionary measures;
6- Procedures for seizing persons.

([179]) Judgement of the Administrative Court in Case No. 16831 of 60 BC issued at the session of 27 February 2007, page No. 514.

The Court of Cassation also ruled that: [Article 49 of Law No. 182 of 1960 regarding combating drugs and regulating their use and trafficking has conferred the status of judicial officers on the directors of the Drug Control Department, its divisions, branches and auxiliaries, including officers, constables, first assistants and second assistants, with regard to the crimes stipulated in this law. Article 21 of the Code of Criminal Procedure stipulates that "the judicial officer shall search for crimes and their perpetrators and collect the necessary evidence for investigation and lawsuit." Article 24 of this law obliges judicial officers and their subordinates to obtain all clarifications and conduct the necessary inspections to facilitate the investigation of the facts reported to them or of which they are aware in any way and to take all necessary precautionary means to preserve the evidence of the crime. Whereas, the judgment proved a statement of the fact of the case that the measures taken by the officers of the Drug Enforcement Administration were carried out in compliance with their duty to take the necessary precautions to discover the crime of bringing the drug and seizing the accused, which is at the heart of their competence as judicial officers. What the appellant attributes to the procedures they have carried out in the claim of nullity has no place] Appeal No. 1891 of 35 S issued at the hearing of February 14, 1966 and published in the first part of the Technical Office's letter No. 17, page No. 134, rule No. 24.

([180]) See Appeal No. 36562 of 73 S issued at the session of February 17, 2004 and published in the letter of the Technical Office No. 55 page No. 164 rule No. 19, Appeal No. 5732 of 63 S issued at the session of March 8, 1995 and published in the first part of the book of the Technical Office No. 46 page No. 488 rule No. 75, Appeal No. 1314 of 36 S issued at the session of November 28, 1966 and published in the third part of the book of the Technical Office No. 17 page No. 1161 rule No. 219..

Subsection 1: Investigations

One of the duties legally imposed on judicial officers in their jurisdictions... To carry out by themselves or through their subordinates the necessary investigations about the facts of which they are aware in any way[181].

Such inquiries must include all evidence that serves to know the truth as proof or denial of a particular fact.

The law does not necessarily require that the judicial officer himself undertake the investigations and research on which the request for permission to search is based or that he has previous knowledge of the investigator. Rather, he may seek the assistance of his collaborators from the public authority, secret informants, and those who inform him of the crimes that have already occurred, as long as he is personally convinced of the validity of the information they have transferred to him and the truth of the information he has received. [182]

([181]) See Appeal No. 10266 of 80 S issued at the hearing of April 10, 2016 and published in the letter of the Technical Office No. 67 page No. 418 rule No. 48, Appeal No. 70964 of 75 S issued at the hearing of October 9, 2012 and published in the letter of the Technical Office No. 63 page No. 465 rule No. 78, Appeal No. 38273 of 74 S issued at the hearing of December 4, 2010 and published in the letter of the Technical Office No. 61 page No. 682 rule No. 87, Appeal No. 10139 of 78 S Issued at the session of January 11, 2010 (unpublished), Appeal No. 1898 of 67 s issued at the session of June 1, 2006 (unpublished), Appeal No. 42103 of 75 s issued at the session of April 4, 2006 and published in Technical Office Letter No. 57 Page 470 Rule No. 55, Appeal No. 11695 of 66 s issued at the session of December 1, 2005 (unpublished), Appeal No. 22878 of 73 s issued at the session of January 6, 2004 and published in Technical Office Letter No. 55 Page No. 86 Rule No. 4, Appeal No. 11266 of 64 S issued at the hearing of April 14, 2003 and published in the letter of the Technical Office No. 54 page No. 530 rule No. 63, Appeal No. 29339 of 70 S issued at the hearing of January 17, 2002 and published in the letter of the Technical Office No. 53 page No. 125 rule No. 23, Appeal No. 29744 of 69 S issued at the hearing of January 8, 2001 (unpublished), Appeal No. 22592 of 67 S issued at the 5th session of January 2000 and published in Technical Office Letter No. 51 Page 48 Rule No. 5, Appeal No. 29653 of 67 S issued in the session of March 10, 1998 and published in Part I of Technical Office Letter No. 49 Page 388 Rule No. 53, Appeal No. 20940 of 64 S issued in the session of October 10, 1996 and published in Part I of Technical Office Letter No. 47 Page 979 Rule No. 139, Appeal No. 2977 of 64 S issued in the session of January 8, 1996 and published in Part I of Technical Office Letter No. 47 Page No. 21 Rule No. 2, Appeal No. 2322 of 63 S issued at the session of January 19, 1995 and published in the first part of the Technical Office's letter No. 46 Page 197 Rule No. 28, Appeal No. 171 of 63 S issued at the session of December 20, 1994 and published in the first part of the Technical Office's letter No. 45 Page 1201 Rule No. 188, Appeal No. 9679 of 61 S issued at the session of April 13, 1993 and published in the first part of the Technical Office's letter No. 44 Page No. 379 Rule No. 52, Appeal No. 11646 of 61 S issued at the session of March 9, 1993 and published in the first part of the Technical Office's letter No. 44 Page No. 246 Rule No. 32, Appeal No. 6840 of 60 S issued at the session of October 3, 1991 and published in the first part of the Technical Office's letter No. 42 Page No. 958 Rule No. 133, Appeal No. 6174 of 58 S issued at the session of January 9, 1989 and published in the first part of the Technical Office's letter No. 40 Page No. 21 Rule No. 3, Appeal No. 2190 of 58 s issued at the session of September 20, 1988 and published in the first part of the book of the Technical Office No. 39 page No. 830 rule No. 124, Appeal No. 313 of 54 s issued at the session of October 14, 1984 and published in the first part of the book of the Technical Office No. 35 page No. 658 rule No. 143, Appeal No. 5462 of 52 s issued at the session of December 22, 1982 and published in the first part of the book of the Technical Office No. 33 page No. 1038 rule No. 213, Appeal No. 2384 of 49 s issued at the session of April 21, 1980 and published in the first part of the book of the Technical Office No. 31 page No. 534 rule No. 102, Appeal No. 1761 of 35 s issued at the session of January 3, 1966 and published in the first part of the book of the Technical Office No. 17 page No. 5 rule No. 2..

([182]) See: Appeal No. 49552 of 85 S issued at the session of July 20, 2016 (unpublished), Appeal No. 2026 of 48 S issued at the session of April 8, 1979 and published in the first part of the book of the Technical Office No. 30 page No. 453 rule No. 96..

Judicial officers may, in the event of carrying out their duties, directly use military force [183].

The law does not specify a specific method to be followed by the police officer in the investigation procedures. He may take the means or procedures that enable him to exercise his jurisdiction in this regard. There is nothing to prevent him, in order to ensure the validity of his investigations, to inquire from any person, even if he is detained in the oath pending a case, because these are just inferences owned by the police officer, and its assessment is ultimately subject to the investigation authority under the supervision of the court of the police officer, and its assessment is ultimately subject to the investigation authority under the supervision of the trial court [184].

The restriction of the officer in the record submitted by him to issue the inspection order to prove the outcome of his investigations of the trafficking of the Appellee with narcotic substances, while postponing the proof of the details of the fact of his agreement and the secret guide with the Appellee to conclude a fake deal for those substances until after the seizure, does not call into question this incident or weaken the testimony of the officer[185].

On the other hand, although the policeman, in addition to his role as an assistant to the judiciary as a judicial officer, which he exercises after the crime in accordance with what is regulated by the Code of Criminal Procedure, has another role, which is his administrative role of preventing crimes before they occur in order to preserve security in the country , that is, the precaution to prevent the occurrence of crimes , which prompted the legislator to grant the policeman some powers in various laws, such as the request to present identity cards or licenses of various vehicles to view them or to enter public shops and shops that are disturbing to comfort, harmful to health, dangerous, and the like. However, these powers are not an absolute right of every restriction exercised by the policeman without an officer, but rather he is restricted in this by the controls of legitimacy prescribed for administrative work. He must target a public interest, have a basis in the law, and abide by the limits necessary to achieve the goal of the legislator by granting him this authority, and abide in its exercise by the constitutional and legal rules, otherwise his work is described as illegitimate and deviating from the authority. Therefore, it is not valid in the law for the policeman to perform his administrative role stipulated in the Traffic Law by reviewing licenses Vehicles should prepare an ambush in which all passing vehicles are stopped without the driver putting himself under suspicion with a behavior issued by him of choice, and it is not correct for the police officer to stop all pedestrians on a public road to see the identity card of each of them unless the person puts himself by choice subject to suspicion and suspicion, because stopping all pedestrians or vehicles randomly in these ambushes is a waste of the presumption of innocence assumed in all and involves exposure to the freedom of movement of individuals, and to say

([183]) Article 60 of the Criminal Procedure Law.

([184]) Appeal No. 19934 of 60 S issued on April 2, 1992 and published in the first part of the book of the Technical Office No. 43 page No. 359 rule No. 52.

([185]) Appeal No. 914 of 47 s issued at the session of January 15, 1978 and published in the first part of the technical office book No. 29 page No. 39 rule No. 6..

otherwise makes the text that authorized him to view vehicle licenses or identity cards tained with the defect of violating the Constitution, which is what the legislator insists on, except that a certain crime has already occurred and the perpetrator is being searched and investigated and its evidence collected, so he has, according to his role as a judicial officer, to exercise these powers in accordance with the provisions of the Code of Criminal Procedure[186].

The Court of Cassation also ruled that investigations are not suitable to be sufficient evidence in itself or independent evidence to prove the accusation, which is then only an opinion of its owner subject to the possibilities of validity, invalidity, truth and lies: [It is established that judgments must be based on evidence from which the judge is convinced of the conviction or innocence of the accused, issued by a belief obtained by him from an independent investigation into the collection of this belief by himself that no one else shares and it is not true in the law that He shall include in the formation of his belief the validity of his statements on which his judgment was based or its invalidity as a judgment for others. It was also decided that although the court may rely on the formation of its belief on investigations as a presumption that strengthens the evidence it has provided, but it does not qualify as sufficient evidence in itself or as an independent presumption of proof of the accusation, and it is then only an opinion of its owner subject to the possibilities of validity, invalidity, truth and lies, until its source is known and determined until the judge himself verifies this source and is able to extend his control over the evidence and assess its legal value in proof. Whereas it is evident from the records of the contested judgment that the court has taken the investigations as basic evidence in proving the accusation without providing evidence and evidence to support it, and it did not refer in its judgment to the source of these investigations in a way that it was able to identify and verify it and then from the truth of what was quoted, its judgment is flawed by corruption in inference and failure to causation, which invalidates it, and the judgment does not exclude the invalidity of the statements of the prosecution witness First Lieutenant..... As the judgment stated, there is nothing in it that leads to the conviction of the appellants or the proof of the accusation against them, as it came free of what the appellants see if they commit the material acts constituting the crime for which they were convicted, and the confession attributed by this witness was limited to the first and second appellants and the accused..... He was "previously sentenced" for merely acknowledging the existence of previous disputes and the outbreak of a quarrel between them, and therefore the fact that the judgment was based on the statements of the aforementioned witness does not change the fact that he relied mainly on investigations, and they do not serve as single evidence in this field. In view of the foregoing, the contested judgment must be overturned, and since the lawsuit, as obtained by the contested judgment, has no evidence other than the police investigations and the testimony of those who conducted them, the appellants must be acquitted of what was attributed to them

([186]) Appeal No. 16412 of 68 BC issued at the session of 14 May 2001 (unpublished).

pursuant to the first paragraph of Article 39 of the Decision Law on the Cases and Procedures of Appeal before the Court of Cassation No. 57 of 1959 replaced by Law No. 11 of 2017][187].

However, the trial court may rely in the formation of its doctrine on the findings of the police investigations as a corroboration of the evidence it has provided as long as those investigations have been presented to the court of law. Therefore, what the appellants raise about the reliance of the judgment on the statements of the victim and the witness of the evidence is corroborated by the results of the police investigations, which is nothing more than an objective argument in the right of the trial court to assess the evidence in the case, which is not subject to raising before the Court of Cassation.

It does not affect the validity of the investigations to be an echo of what was reported to the victim because this means that the perpetrator has verified the validity of that report, so preventing the appellants in this regard - by imposing its validity - is not correct [188].

The Court of Cassation also ruled that: [It is established that the court relies in the formation of its doctrine on the content of the police investigations as long as they were presented to the search, and the court was within the limits of its discretionary authority has been reassured of the integrity and validity of the investigations and procedures carried out by the police officer, and it was established from the records of the contested judgment that the court did not build its original judiciary on the content of the evidence resulting from those investigations, but relied on it as a presumption to strengthen the evidence of proof that it reported, there is no wing of the judgment if it relied on that presumption and the statements of its authors in support and strengthening the other evidence relied on in its judiciary as long as it did not take from those investigations as evidence to prove the accusation before the appellant, and it does not affect its validity that the personality of the guide remains unknown and is not disclosed by the judicial officer chosen by him to his assistant in his mission, the appellant's reliance on the judgment is resolved to an objective controversy in the trial court's authority to assess the evidence of the case, which goes beyond the control of the Court of Cassation[189].

Subsection 2: Receiving Notifications and Complaints

Article 24 of the Code of Criminal Procedure stipulates that: "Judicial officers must accept notifications and complaints received by them regarding crimes, and immediately send them to the Public Prosecution. They and their subordinates must obtain all clarifications and conduct the necessary inspections to facilitate the investigation of the facts reported to them, or which they declare in any way whatsoever. They must take all necessary precautionary means to preserve the evidence of the crime. All procedures carried out by judicial officers must be recorded in minutes signed by them indicating the time of taking the procedures and the place of its

([187]) Appeal No. 9558 of 88 S issued on February 7, 2021 (unpublished).

([188]) Appeal No. 11275 of 88 S issued on February 6, 2021 (unpublished).

([189]) Appeal No. 11199 of 88 S issued on February 6, 2021 (unpublished).

occurrence, and these minutes must include, in addition to the foregoing, the signature of the witnesses and experts who heard, and the minutes shall be sent to the Public Prosecution with the seized papers and objects.

Reporting crimes is the right of every human being, and whoever knows that a crime has occurred, the Public Prosecution may file a lawsuit for it without a complaint or request to report it to the Public Prosecution or one of the judicial officers [190].

Informing the competent authorities of the crimes that occur, for which the Public Prosecution may file a criminal case without a complaint or request, is right established for every person, in order to protect society from the tampering of outlaws [191].

The amount does not need to be the victim of the crime, as it may be another person [192].

Sometimes reporting in some of its forms may require keeping the body of the crime and submitting it to the public authority, and the body of the crime may be what the law prohibits its possession or acquisition, but keeping it in this case, no matter how long it lasts, does not change its nature as long as its purpose, which is reporting, has not changed, even if it is ostensibly characterized by the nature of the crime, pursuant to Article 60 of the Penal Code, which states: "The provisions of the Penal Code shall not apply to any act committed in good faith in accordance with a right established under Sharia" [193].

Reporting criminal facts is a right for every human being, but it is a duty imposed on him. It is not correct to punish him and require compensation from him unless he has deliberately lied about it [194].

However, if the report of the crime is false, it exposes its owner to criminal accountability for the charge of false reporting if he has criminal intent, according to the text of Article 305 of the Penal Code: "As for whoever is told a false thing with bad intent, he deserves to be punished, even if there is no rumor from him other than the aforementioned report and no lawsuit has been filed against what he was told."

In addition, in some crimes, reporting them is a duty that they are aware of, so they shall be punished by imprisonment for a period not exceeding one year and a fine not exceeding five

(190) Article 25 of the Criminal Procedure Law.

(191) See: Appeal No. 12200 of the year 82 S issued at the session of October 20, 2014 and published in the letter of the Technical Office No. 65 page No. 726 rule No. 89.

(192) See: Appeal No. 20432 of 86 S issued on October 1, 2018 (unpublished).

(193) See: Appeal No. 11667 of 66 S issued at the 7th session of December 2005 and published in the letter of the Technical Office No. 56 page No. 687 rule No. 104, Appeal No. 21092 of 63 S issued at the 27th session of January 2003 and published in the letter of the Technical Office No. 54 page No. 220 rule No. 17.

(194) See: Appeal No. 6352 of 56 S issued at the session of April 1, 1987 and published in the first part of the Technical Office's book No. 38 page No. 522 rule No. 86, Appeal No. 239 of 44 S issued at the session of April 1, 1974 and published in the first part of the Technical Office's book No. 25 page No. 355 rule No. 77, Appeal No. 947 of 11 S issued at the session of April 14, 1941 and published in the first part of the set of legal rules No. 5 p page No. 444 rule No. 243.

hundred pounds, or one of these two penalties, whoever knows of the commission of a felony that is harmful to the security of the government from the outside and has not rushed to report it to the competent authorities [195].

Whoever learns of the existence of a project to commit one of the crimes stipulated in articles 87, 89, 90, 90 bis, 91, 92, 93 and 94 of the Penal Code and does not inform the competent authorities shall be punished by imprisonment[196].

Whoever becomes aware of the commission of a crime of acquiring, possessing, importing, or manufacturing explosives, explosive materials, or the like before obtaining a license to do so, as well as whoever becomes aware of the commission of a crime of acquiring, possessing, importing, or unjustifiably manufacturing devices, machines, or tools used in the manufacture or detonation of explosives, explosive materials, or the like, and fails to inform the competent authorities before discovering them ([197]) shall be punished by imprisonment.

Likewise, any public official or person in charge of a public service who learns during the performance of his work or because of his performance of a crime for which the Public Prosecution may file a lawsuit without a complaint or request shall immediately report it to the Public Prosecution or the nearest judicial[198] officer.

The Court of Cassation ruled that "Article 26 of the Code of Criminal Procedure obliges any employee or person in charge of a public service to report immediately to the Public Prosecution or the nearest judicial officer. If it is established from the judgment that the “asset "was carrying out one of the work of his job, which is to verify the existence of the defendant's custody of weapons and ammunition in the flint prepared for preservation. In the meantime, his eyesight fell on the sharp object "makhish". When he investigated his news, it seemed to him that the defendant's actions suggested that there was a crime in the matter, so he kept it and informed the Public Prosecution of what happened. There is no violation of what he gave to the ruler of the law"[199] .

The failure of an employee or a person in charge of a public service to perform the duty to report a crime is considered a serious breach of the duties of the job or public service [200].

The duty to report crimes that public officials or those assigned to a public service are aware of during the performance of their work or because of its performance is included in the duties of their job, which exposes them to disciplinary responsibility if they violate this duty. As a result of

([195]) Article 84 of the Penal Code.

([196]) Article 98 of the Penal Code.

([197]) Article 102 (a) of the Penal Code.

([198]) Article 26 of the Criminal Procedure Law.

([199]) Appeal No. 1075 of 29 BC issued at the session of November 17, 1959 and published in the third part of the book of the Technical Office No. 10 page No. 888 rule No. 189.

([200]) Appeal No. 12857 of the year 4 issued in the session of March 25, 2014 and published in the letter of the Technical Office No. 65 page No. 169 rule No. 17.

the above, offering a bribe to a public official to refrain from fulfilling the duty to report the crime assigned to him by law is a matter related to the employee's liability. If such refusal occurs, it is a serious breach of the duties of his job, which obliges him to report the crimes he knows about during the performance of his work or because of his performance. This breach of duty falls under the category of bribery and is punishable by law when the employee receives a payment in return, and whoever offers this for this purpose is a bribe deserving of punishment[201].

This is equivalent under the law to a public official or employee refraining from performing a duty of their position, pursuant to the provisions of Article 104 of the Penal Code, as amended by Law No. 69 of 1953. This article enumerates the forms of bribery, and its wording is unrestricted by any limitation, thereby encompassing all misconduct affecting the tasks undertaken by the official and every action or behavior related to these tasks. Such actions are deemed part of their duties to be performed correctly, ensuring that they are always conducted in an upright and proper manner[202].

When the legislator obligated the judicial officers to report the incidents to the Public Prosecution, he only intended to regulate the work and preserve the evidence so as not to dilute his power of proof, and the mere negligence in this did not result in any invalidity. The lesson is what the court is convinced of regarding the validity of the incident and the validity of attributing it to the accused, even if the notification is delayed[203].

Also, reporting the crime is sometimes considered a reason for exemption from punishment in accordance with the conditions prescribed by law, as in Articles (84 (a), 88 bis E, 89 bis, 101, 108, 118 bis (b), 205, and 252 bis[204].

([201]) Appeal No. 682 of 29 S issued on June 1, 1959 and published in the second part of the Technical Office's book No. 10 page No. 589 rule No. 131.

([202]) Appeal No. 1367 of 37 S issued at the session of November 28, 1967 and published in the third part of the Technical Office letter No. 18 page No. 1196 rule No. 252, Appeal No. 2372 of 30 S issued at the session of February 20, 1961 and published in the first part of the Technical Office letter No. 12 page No. 241 rule No. 42.

([203]) Appeal No. 320 of 27 S issued on the 6th of May 1957 and published in the second part of the book of the Technical Office No. 8 page No. 459 rule No. 127.

([204]) Article 84 (a) of the Penal Code stipulates that: "Any offender who informs the administrative or judicial authorities before the start of the execution of the crime and before the start of the investigation shall be exempted from the penalties prescribed for the crimes referred to in this chapter. The court may exempt from punishment if the report occurs after the completion of the crime and before the start of the investigation.

It may do so if the offender in the investigation enables the authorities to arrest the other perpetrators of the crime or the perpetrators of another crime of a similar type and gravity. "

Article 88 bis (e) of the Penal Code stipulates that: "Any offender who informs the administrative or judicial authorities before the start of the execution of the crime and before the start of the investigation shall be exempted from the penalties prescribed for the crimes referred to in this section. The court may exempt him from punishment if the report occurs after the completion of the crime and before the start of the investigation.

It may do so if the offender in the investigation enables the authorities to apprehend the other perpetrators of the crime, or the perpetrators of another crime of a similar type and gravity.".

Article 89 bis of the Penal Code stipulates that: "Whoever intentionally sabotages in any way one of the means of production or immovable or movable property of one of the entities stipulated in Article 119 to harm the national economy shall be punished by life imprisonment or aggravated imprisonment.

Subsection 3: Obtaining Clarifications

One of the duties imposed on judicial officers in their jurisdictions is to obtain all clarifications and inferences leading to the establishment or denial of the facts reported to them that they see for themselves[205].

The punishment shall be life imprisonment if the crime results in serious damage to the economic status of the country or to its national interest, or if the crime is committed in time of war.

In all cases, the perpetrator shall be sentenced to pay the value of the things he has destroyed.

It is permitted to exempt from punishment any of the accomplices in the crime who are not instigators of its commission by informing the judicial or administrative authorities of the crime after its completion and before the issuance of the final judgment in it.

Article 101 of the Penal Code stipulates that: "Whoever takes the initiative to inform the government of whoever carried out, induced or participated in such rape before the occurrence of the felony intended to be committed and before the government searches and searches for these prostitutes shall be exempt from the penalties prescribed for prostitutes. Likewise, whoever indicates to the government the means to arrest them after they start searching and searching shall be exempted from these penalties. "

Article 108 of the Penal Code stipulates that: "If the purpose of bribery is to commit an act punishable by law with a punishment more severe than that prescribed for bribery, the bribe-taker, the bribe-taker and the intermediary shall be punished with the punishment prescribed for that act with the fine prescribed for bribery. The bribe-taker or the intermediary shall be exempted from punishment if he informs the authorities of the crime in accordance with the provisions of the last paragraph of Article 48 of this Law."

Article 118 bis (b) of the Penal Code stipulates that: "Any of the accomplices to the crime who are not instigators of its commission shall be exempted from the penalties prescribed for the crimes stipulated in this chapter by informing the judicial or administrative authorities of the crime after its completion and before its discovery. It is permitted to be exempted from the aforementioned penalties if the notification takes place after the discovery of the crime and before the issuance of the final judgment.

It is not permitted to exempt the amount of the crime from punishment in accordance with the two preceding paragraphs in the crimes stipulated in articles 112, 113, and 113 bis if the notification does not result in the return of the property subject of the crime.

Whoever conceals money obtained from one of the crimes stipulated in this section may be exempted from punishment if he reports it and this leads to its discovery and the return of all, or part of the money obtained from it.".

Article 205 of the Penal Code stipulates that: "Any perpetrator who informs the government of such felonies before using counterfeit, forged or counterfeit currency and before initiating an investigation shall be exempted from the penalties prescribed in Articles 202, 202 bis and 203. The court may exempt the offender from punishment if the notification occurs after the initiation of the investigation when it enables the authorities to arrest other perpetrators of the crime or other perpetrators of another crime of a similar type and gravity.

Article 252 bis of the Penal Code stipulates that: "Anyone who intentionally sets fire to a means of production or to immovable or movable property of one of the entities stipulated in Article 119 with the intention of harming the national economy shall be punished by life imprisonment or aggravated imprisonment. The punishment shall be life imprisonment if the crime results in serious damage to the economic status of the country or its national interest, or if it is committed in time of war. In all cases, the perpetrator shall be sentenced to pay the value of the items he burned.

Any of the accomplices who are not instigators of the commission of the crime may be exempted from punishment by informing the judicial or administrative authorities of the crime after its completion and before the final judgment is issued. "

([205]) Appeal No. 10266 of 80 S issued at the 10th session of April 2016 and published in the letter of the Technical Office No. 67 page No. 418 rule No. 48, Appeal No. 11266 of 64 S issued at the 14th session of April 2003 and published in the letter of the Technical Office No. 54 page No. 530 rule No. 63.

The judicial officer must collect the necessary clarifications from all persons related to the incident who have information about it (the informant and the suspect, witnesses, and others) and must be invited to give these clarifications in one way without discrimination, and this invitation is made by notifying them in any way or by administrative way.

The collection of evidence leading to the investigation is not limited to the judicial officers themselves, but they may use their subordinates such as soldiers, guards, detectives and guides. All of them have the right to investigate the crimes that are reported to them or that they know of in any way. The judicial officer may refrain from giving the name of the person who gave him the evidence. However, he does not have a wing. Whenever the judicial officer receives a report or a complaint about a crime or his knowledge reaches him in any way, as if he saw it himself, he and his subordinates must obtain the necessary clarifications, any information of the informant or the complainant, obtain the necessary clarifications, any information of the informant or the complainant, inspect the subject and the place of the crime, and initiate all the procedures he deems necessary in order to investigate the incident. He must take all necessary means to preserve the evidence of the crime, such as guarding a body or keeping a weapon found at the scene, footprints or fingerprints, and the judicial officers in carrying out their duties, using direct military force.

As for the suspect, the matter is clarified by questioning rather than an interrogation, it is not permissible to ask detailed questions aimed at proving the charge or trying to frame him, otherwise, he is considered an interrogation, which is prohibited for the judicial officer, even by mandate, to investigate [206].

The judicial officer may, during the collection of evidence, hear the statements of witnesses, that is, anyone who has information about the incident and its perpetrators. The judicial officer may seek the assistance of experts - such as doctors and others - to express their opinion on us, whether in writing or orally. However, as long as these procedures are considered evidence, it is not permissible to swear witnesses and experts, except in the event of fear that the witness or expert will not be able to be heard after taking the oath later, then it is permissible to swear them as if the victim is near death.

There is no obligation for the accused or the witness to comply with the order of the judicial officer to present a defense or provide information. The judicial officer cannot order the arrest of the accused except in specific cases. It is also not permissible to issue an order to arrest and bring the witness. The failure of the witness to appear in this case is not considered a crime.

Among what the judicial officer can use in the inference is the police dogs, and no objection prevents the court from completing its evidence with it [207].

([206]) See: Appeal No. 160 of 44 S issued at the session of March 24, 1974 and published in the first part of the Technical Office's letter No. 25 page No. 317.

([207]) The Court of Cassation ruled that: [There is no objection to the use of police dogs in the investigation as a means of identification and detection of criminals, nor to the judge to strengthen the evidence in his hands]. Appeal No.

The judicial officer may ask the accused about the act attributed to him, which is a measure taken in favor of the latter. He may have a defense that is better to start examining it. The question usually differs from interrogation in which the accused discusses in detail in a way that may lead to his entrapment, although in practice there is no control to distinguish between the two procedures. Perhaps the legislator wanted to warn that at this stage of the criminal case, the accused should be limited to merely informing him of the incident assigned to him until he submits his defense, if he is found to be valid in it [208].

Subsection 4: Conducting the necessary inspections to facilitate the investigation of the facts

According to the text of Article 24 of the Code of Criminal Procedure, judicial officers, after accepting the notifications or complaints received by them about crimes, must conduct the necessary inspections to facilitate the investigation of the facts reported to them, or which they announce in any way whatsoever. The Court of Cassation ruled that Article 24 of the Code of Criminal Procedure obligated judicial officers and their subordinates to obtain all clarifications and conduct the necessary inspections to facilitate the investigation of the facts reported to them or of which they are aware in any way ([209].

Article 29 of the Criminal Procedure Law stipulates that: "Judicial officers may, during the collection of evidence, hear the statements of those who have information about criminal facts and their perpetrators, and ask the accused about this. They may seek the assistance of doctors and other experts and ask for their opinion orally or in writing. They may not take the oath of witnesses or experts unless it is feared that the testimony will not be heard later."

1097 of 9 S issued at the session of October 23, 1939 and published in the first part of the book of the Technical Office No. 4 p Page No. 583 Rule No. 415.

([208]) The Court of Cassation ruled that: [Interrogation, which is a procedure prohibited by law other than the investigating authority, is to confront the accused with the various evidence before him and discuss it in detail as he refutes it if he denies the charge or admits it if he wants to confess... Whereas the appellant acknowledges in her appeal that all that happened from the judicial officers in the record of evidence collection is that he asked the defendants about their names, addresses, age and the charges against them, the contested judgment was presented to plead the invalidity of the evidence derived from their confession in that record and replied that the judicial officers, under Article 29 of the Criminal Procedure Law, may ask the defendants about the charges against them and that he did so as established in the record of evidence collection without questioning the defendants in detail or confronting them with evidence, he has responded to the payment in a correct response in the law that justifies his dismissal]Appeal No. 729 of 36 s issued at the session of June 21, 1966 and published in Part II of the Technical Office's book No. 17, page 862, rule No. 162.

([209]) Appeal No. 1891 of 35 s issued at the session of February 14, 1966 and published in the first part of the Technical Office letter No. 17 page No. 134 rule No. 24, Appeal No. 2 of 26 s issued at the session of April 24, 1956 and published in the second part of the Technical Office letter No. 7 page No. 659 rule No. 184.

Subsection 5: Procedures for Seizure of Objects

The judicial officer shall take all necessary precautionary means to preserve the evidence of the crime, and he may put seals on places with traces or things useful in revealing the truth, and he may establish guards over them [210].

If there are papers sealed or wrapped in any other way in the house of the accused, it is not permissible for the judicial officer to disperse them [211].

The judicial officer may take all necessary precautionary means to preserve the evidence of the crime, and one of his tasks is to inspect the subject and place of the crime, and to take all necessary means to preserve the evidence of the crime, such as guarding a body or keeping a weapon found at the scene, footprints, or fingerprints. For this purpose, he may put seals containing traces or objects useful in revealing the truth, and he must notify the Public Prosecution immediately, and the Public Prosecution must, if it deems it necessary, submit the matter to the magistrate for approval. This also includes assigning policemen to guard or summon criminal laboratory experts and personal investigation to photograph the scene of the crime and capture fingerprints. He may hear the statements of witnesses, that is, anyone who has information about the incident and its perpetrator. He may ask the accused about the act attributed to him - without interrogation - and he may seek the assistance of experts such as doctors and others to express their opinion on what he deems necessary. He may not take oaths from witnesses and experts, but this excludes the case of fear that he will not be able to take oaths as if the victim is near death, and he may seek the assistance of dogs The police are at the inference stage.

The clothes of the accused and the victims shall be seized if traces are found that may be useful in the investigation, as well as papers, weapons, machines, and all that may have been used in the commission of the crime or resulted from its commission or what the crime occurred, and all that is useful in revealing the truth, noting the proof of the numbers and signs of the seized weapons and using police officers or a weapons examination expert in the Security Directorate when necessary, and the exact descriptions of the seizures and how to seize them shall be recorded in the record.

The seized objects shall be presented to the accused, and he shall be asked to make his observations on them, and a report shall be signed by him or mentioning his refusal to sign [212].

Items and papers that are seized shall be placed in sealed holdings - and attached whenever possible - and stamped on them with the seal of the investigator. The date of the written record shall be written on a tape inside the seal by seizing those items, and the subject for which the

([210]) Articles 24 and 53 of the Criminal Procedure Code.

([211]) Article 52 of the Criminal Procedure Law.

([212]) Article 671 of the Judicial Instructions of the Public Prosecution.

seizure took place shall be indicated. Wooden boxes may be replaced with plastic bags or bags to place the seizures and seize them, as the case may be [213].

The prosecution may place seals on places with traces or objects useful in revealing the truth and may establish guards on them, provided that it submits the matter to the magistrate for approval and the judicial officers take this action, and they must notify the prosecution of it immediately, to raise the matter if it deems necessary to the magistrate for approval, and the seals may not be broken except in the presence of the accused or his agent and those with whom the things are seized or after inviting them to do so)[214](.

Violation of the procedures for seizure of seizures stipulated by law shall not result in nullity, and this shall be left to the court's reassurance of the integrity of the evidence and that the seized exhibits have not been tampered with [215].

The law, when it required the initiative to put the seizures in a closed investigation, but to regulate the work and preserve the evidence so as not to dilute its power of proof, but the mere negligence in this did not result in any invalidity, the matter is due to the court's reassurance about the integrity of this evidence like other elements of the lawsuit [216].

([213]) Article 672 of the Judicial Instructions of the Public Prosecution.

([214]) Article 673 of the Judicial Instructions of the Public Prosecution..

([215]) See Appeal No. 9509 of 70 S issued at the session of July 31, 2006 (unpublished), Appeal No. 26109 of 69 S issued at the session of February 20, 2002 and published in the Technical Office's book No. 53, page No. 307, rule No. 55, Appeal No. 890 of 65 S issued at the session of February 12, 1997 and published in the first part of the Technical Office's book No. 48, page No. 164, rule No. 24, Appeal No. 3478 of 64 S issued at the session of January 16, 1996 and published in the first part of the Technical Office letter No. 47 Page 86 Rule No. 11, Appeal No. 1734 of 50 S issued at the session of January 26, 1981 and published in the first part of the Technical Office letter No. 32 Page 79 Rule No. 12, Appeal No. 1006 of 43 S issued at the session of December 9, 1973 and published in the third part of the Technical Office letter No. 24 Page 1176 Rule No. 240, Appeal No. 2260 of 38 S issued at the session of June 2, 1969 and published in the second part From the Technical Office Letter No. 20 Page No. 795 Rule No. 159, Appeal No. 3066 of 32 S issued at the session of February 4, 1963 and published in the first part of the Technical Office Letter No. 14 Page No. 88 Rule No. 19, Appeal No. 647 of 29 S issued at the session of May 25, 1959 and published in the second part of the Technical Office Letter No. 10 Page No. 570 Rule No. 127, Appeal No. 1407 of 25 S issued At the session of April 10, 1956, published in the second part of the technical office letter No. 7, page 542, rule No. 158, appeal No. 457 of 25 s issued in the session of June 13, 1955, published in the third part of the technical office letter No. 6, page No. 1117, rule No. 325, appeal No. 1201 of 24 s issued in the session of April 26, 1955, published in the third part of the technical office letter No. 6, page No. 886, rule No. 265, appeal No. 22 of 25 s issued in the session of March 21, 1955, published in the second part of the office letter Technician No. 6 Page No. 676 Rule No. 219.

([216]) Appeal No. 2032 of 29 s issued at the session of January 4, 1960 and published in the first part of the Technical Office letter No. 11 page No. 11 rule No. 2, Appeal No. 8 of 25 s issued at the session of March 14, 1955 and published in the second part of the Technical Office letter No. 6 page No. 644 rule No. 210

The Court of Cassation ruled that: [If it is established in the case papers that the officer seized the seized materials by obtaining his seal with a seal that reads ... Without proving in his record that he kept this seal until the analysis of those materials is carried out, however, since the failure of the officer to prove in his record that he kept the seal that he used in seizing the seizures does not in itself lead to doubts that the hand of tampering has extended to seizing and seizures] Appeal No. 2046 of 51 s issued at the session of December 10, 1981 and published in the first part of the book of the Technical Office No. 32 page No. 1080 rule No. 193.

The mere delay in taking the necessary measures to seize seized narcotic substances does not in itself indicate a certain meaning [217].

The law also did not require that the procedures for seizing seizures be taken at the place of seizure as long as their requirements have necessitated the follow-up of procedures outside that place, as the seizing procedures are only regulatory procedures, the violation of which is not null and void by law but is intended only to preserve evidence [218].

The court may pay attention to what the defendant's defense raises about the invalidity of the seizure procedures in his absence if he did not claim that tampering with the exhibits ([219]).

Judicial officers shall notify the Public Prosecution of the measures they have taken, and the Public Prosecution shall if it deems it necessary, refer the matter to the magistrate for approval [220].

However, the Court of Cassation ruled that the legislator did not intend when obliging the judicial officers to report the incidents to the Public Prosecution, except to organize the work and preserve the evidence so as not to dilute its power of proof, and the mere delay in reporting did not result in any invalidity, as the lesson is what the court is convinced of regarding the validity of the incident and its attribution to the accused, even if the reporting is delayed [221].

The trial judge is free to assess the integrity of the seals and procedures for seizing seizures, without censorship by the Court of Cassation, as long as he bases his assessment on what he produces. The matter regarding seizing seizures related to the crime is up to the trial court. If you are satisfied with the integrity of the seizures, it is not permissible to argue in this regard before the Court of Cassation[222].

Subsection 6: Stops

Legally, a stop is no more than the act of halting a person who has placed themselves in a suspicious situation, with the aim of identifying their identity. It is conditional upon the procedures

([217]) Appeal No. 3478 of 64 S issued at the session of January 16, 1996 and published in the first part of the book of the Technical Office No. 47 page No. 86 rule No. 11.

([218]) Appeal No. 3784 of 62 S issued on February 6, 1994 and published in the first part of the Technical Office's book No. 45 page No. 209 rule No. 32.

([219]) Appeal No. 1001 of 41 s issued at the 6th session of December 1971 and published in the third part of the book of the Technical Office No. 22 page No. 719 rule No. 175.

([220]) Article 53 of the Criminal Procedure Law.

([221]) Appeal No. 3784 of 62 S issued at the session of February 6, 1994 and published in the first part of the Technical Office's book No. 45 page No. 209 rule No. 32, Appeal No. 594 of 58 S issued at the session of April 17, 1988 and published in the first part of the Technical Office's book No. 39 page No. 627 rule No. 93.

([222]) Appeal No. 985 of 47 s issued at the session of March 13, 1978 and published in the first part of the technical office book No. 29 page No. 271 rule No. 51, Appeal No. 120 of 44 s issued at the session of February 25, 1974 and published in the first part of the technical office book No. 25 page No. 195 rule No. 43, Appeal No. 117 of 42 s issued at the session of March 12, 1972 and published in the first part of the technical office book No. 23 page No. 357 rule No. 81.

not involving any physical interference with the individual being investigated that could infringe upon or violate their personal freedom[223].

A stop is an action performed by a public authority figure to investigate crimes and identify their perpetrators. It is justified by suspicion warranted by the circumstances. This action is permissible for a public authority figure if the individual voluntarily and willingly places themselves in a situation of doubt and suspicion, necessitating the officer's intervention to investigate and uncover the truth about them[224].

Legally, a stop is merely halting a person who has placed themselves in a suspicious situation in order to ascertain their identity. It is conditional upon the procedures not involving any physical interference with the person being investigated that could infringe upon or violate their personal freedom[225].

Determining whether the justification for a stop exists or not is a matter left to the discretion of the trial judge, whose decision is not subject to review as long as it is supported by sufficient reasoning [226].

A stop occurs when the individual, through their own will and choice, places themselves in a situation of doubt and suspicion, justifying the intervention of the public authority figure to ascertain their true status [227].

([223]) Article 362 of the Judicial Instructions of the Public Prosecution.

([224]) Appeal No. 2268 of 83 S issued at the session of June 10, 2014 (unpublished), Appeal No. 1314 of 60 S issued at the session of December 21, 1998 and published in the first part of the book of the Technical Office No. 49, page No. 1504, rule No. 211, Appeal No. 1625 of 48 S issued at the session of January 25, 1979 and published in the first part of the book of the Technical Office No. 30, page No. 159, rule No. 30, Appeal No. 1708 of 39 S issued at the session of January 12, 1970 and published in the first part of the book of the Technical Office No. 21, page No. 74, rule No. 18.

([225]) Appeal No. 37357 of 73 S issued at the session of April 18, 2010 (unpublished), Appeal No. 405 of 36 S issued at the session of May 16, 1966 and published in the second part of the Technical Office's letter No. 17 page No. 613 rule No. 110.

([226]) Appeal No. 13620 of 88 s issued at the session of January 2, 2021 (unpublished), Appeal No. 19728 of 87 s issued at the session of March 14, 2018 (unpublished), Appeal No. 2268 of 83 s issued at the session of June 10, 2014 (unpublished), Appeal No. 66 of 81 s issued at the session of September 8, 2011 (unpublished), Appeal No. 1314 of 60 s issued at the session of December 21, 1998 and published in the first part of the Technical Office Book No. 49, page No. 1504, rule No. 211, Appeal No. 5941 of 55 s issued at the session of February 2, 1986 and published in the first part of the Technical Office Book No. 37, page No. 223, rule No. 46.

([227]) The Court of Cassation ruled that: [... The reference of the judicial officer to the "driver of the car" to stand and not to comply with that, but increased his speed in an attempt to flee, knowing that they are in an area known for trafficking in narcotic substances is a legal arrest that is justified] Appeal No. 19728 of 87 BC issued at the hearing of March 14, 2018 (unpublished).

It also ruled that: [It is established that the restrictions on the right of judicial officers to conduct arrest and search for cars go to cars on public roads, preventing them from being searched or arrested except in the exceptional cases prescribed by law as long as they are in the possession of their owners, and as for cars intended for rent - which the appellant does not dispute that he was riding - the judicial officers have the right to stop them while they are walking on public roads to verify that they do not violate the provisions of the Traffic Law] Appeal No. 33128 of 86 issued in a hearing 8 June 2017 (unpublished), Appeal No. 66 of 81 s issued at the hearing of 8 September 2011 (unpublished), and see: Appeal No. 26471 of 67 s issued at the hearing of 17 April 2000 and published in Technical Office Letter No. 51 Page No. 420 Rule No. 78, Appeal No. 10748 of 67 s issued at the hearing of 4 May 1999 and

published in the first part of Technical Office Letter No. 50 Page No. 275 Rule No. 65, Appeal No. 29291 of 59 s issued at the hearing of 13 May 1999 December 1990, published in the first part of the book of the Technical Office No. 41, page No. 1094, rule No. 198.

It ruled that: [The contested judgment has been submitted to plead nullity of arrest and search because of the absence of justifications for the arrest and put him in saying: "As for the plea of nullity of arrest and search and the subsequent procedures and the nullity of the arrest because of the absence of justifications, the court is fully convinced of the testimony of the prosecution witness that during his passage through the department, the accused witness and another inside one of the cars, and once the accused witness, the driver of the car, even tried to escape, but he was able to stop it. By asking the accused about the license, he decided not to carry it and admitted stealing the car in conjunction with his companion, so he seized them. By searching the car, he found 13 drug tramadol tablets. His driving of the stolen car without a license became the source of evidence against him under the provisions of Article 75/2, 3 of the amended Traffic Law, which is a crime punishable by detention for a period of more than three months pursuant to the provisions of Articles 34 and 36 of the Code of Criminal Procedure, and then the suspension is valid because it is the right of the judicial officer to stop the cars and persons in case if he puts himself in doubt and suspicious. Whereas, the arrest was made after the presence of the accused in a state of flagrante delicto, and therefore there is no point in invalidating the arrest and search, as that was, and the outcome of the judgment in the foregoing was correct in the law [Appeal No. 6445 of 82 S issued at the session of February 5, 2013 (unpublished).

It ruled that: [The judgment has invoked the right that the appellant and the convict have voluntarily and voluntarily placed themselves in a position of suspicion and suspicion, while trying to hide something with the car pedal, as well as the appellant's failure to carry the driver's license, which justifies the incident officer's arrest to reveal the truth of his order and take him to the police station without this being considered in the correctness of the law - by arrest - and therefore what the appellant contests in this regard is misplaced] Appeal No. 5321 of 70 BC issued at the session of 16 October 2007 (unpublished).

It ruled that: [The judgment has rightly invoked that the appellant and the driver of the car have voluntarily and voluntarily placed themselves in a position of suspicion and suspicion by loading the car with foodstuffs and rushing it out of the city of Alexandria, despite the fact that the law has prohibited this, in addition to the failure of the driver of the car to carry their own driving license as well as the driving license, which justifies the police assistant to stop them to reveal the truth of their matter and take them to the police station without this being considered a valid legal arrest.

Whereas the contested judgment proved that the appellant offered the bribe amount to the police assistant after the latter stopped it so as not to take legal action against him for committing traffic and supply crimes. The case of flagrante delicto has been achieved as a result of this suspension, and it is based on that that he is arrested after the establishment of this case correctly, there is no violation of the law] Appeal No. 1398 of 57 S issued at the session of June 7, 1987 and published in the second part of the book of the Technical Office No. 38 page No. 745 rule No. 133.

Whereas, in another judgment, it ruled that: [Articles 34 and 35 of the Criminal Procedure Law amended by Law No. 37 of 1972 on guaranteeing the freedoms of citizens, it is not permissible for the judicial police officer to arrest the accused present except in cases of flagrante delicto punishable by imprisonment for a period of more than three months if there is sufficient evidence of his accusation. Article 46 of the same law empowered him to search the accused in cases where it is permissible to arrest him legally, whatever the reason for or purpose of the arrest. The basis for authorizing the preventive search is that it is a precautionary measure that any member of the authority executing the arrest order is justified to carry out in order to prevent what may be likely to harm the accused person or others who are proceeding with his arrest from anything that may be with him. It is not permissible for the judicial police officer to search for a preventive measure. Whereas, justice does not harm the impunity of a criminal as much as infringements on the freedoms of people and their unjust arrest. Whereas, the fact of the lawsuit, as obtained by the contested judgment, was that the officer of the incident stopped the appellant simply because of his confusion after watching it, which is not inconsistent with the normal course of things - and is not a justification for the arrest and does not have a case of flagrante delicto - and that what the officer of the incident did in such a copy of this lawsuit is an arrest that has no basis in law and does not invalidate what the judgment stated in the context of his response to the plea that the appellant is required in several cases as long as the judgment did not disclose that there is a warrant issued to seize him and bring him or that he is required for implementation under a judgment issued against him that is enforceable. Therefore, the arrest and search of the appellant by the incident officer is null and void and has no legal basis] Appeal No. 4662 of 80 s issued at the session of November 19, 2011 (unpublished).

In another judgment, it ruled that: [The contested judgment had been presented to plead the nullity of the stop for lack of justification and responded in saying: "Since it is about pleading the nullity of the arrest of the two accused, it was misplaced because it is established from the statements of the incident officer Colonel/ ..... Supervisor of security services at the beginning of Al-Muizz Ladin Allah Al-Fatimi Street in the Ghuriyah area, Darb Al-Ahmar

Police Department, in order to secure the tourist regiments frequenting that tourist place and that due to the instructions of the authorities, The security is strict to check the visitors to these tourist places from individuals who exaggerate the coverage of their features and hide in loose clothing. Since the defendants were wearing wide women's clothes that concealed their features, and each of them was carrying in her hand a black leather bag inflated and fearing that the defendants or one of them carried folds of her clothes or hides in her bag any of the explosive materials, the officer stopped the two defendants to examine them. Therefore, the arrest came true under the law, as the two defendants voluntarily placed themselves in doubt and doubt in their loose clothes and the inflated bag. The officer wanted to conduct the investigation work only by asking them about their names and their destination and demanding them to show the investigation of each of their personality and no more than that with which the arrest is healthy. "The verdict of the above is true in the law. It is decided that the arrest is a procedure carried out by the man of the public authority to investigate the crimes The perpetrators revealed and justified a suspicion justified by the circumstances, which is permissible to the man of the public authority if the person voluntarily and optionally places himself in a position of suspicion and suspicion in a manner that foretells the necessity of the arrestee's intervention to investigate and reveal his truth pursuant to the provisions of Article 24 of the Criminal Procedure Law, - as is the case in the case at hand - and the decision on whether the justification for the suspension is justified or not was one of the matters that the trial judge assesses without comment as long as the conclusion is justified and the contested judgment was presented to plead the nullity of the suspension by being convinced of the circumstances and justifications for it in the above manner - the law has been correct] Appeal No. 7737 of 80 Q issued at the session of 6 April 2011 (unpublished). This judgment is critical, as it was taken from the woman's wearing wide women's clothing that hides her features and carrying a black leather bag in her hand that she voluntarily placed herself in doubt in her loose dress and puffy bag.

The Court of Cassation also ruled that: [In terms of the contested judgment between the fact of the lawsuit to the effect that while Major/ .... To examine motorists and seize drug abusers from them for driving cars under the influence of this abuse, he stopped the accused's driving and discussed with him the signs of being under the influence of the drug. He asked him to conduct the necessary analysis and agreed to do so. By conducting that analysis, which proved his use of the drug tramadol, and after the verdict obtained the incident of the lawsuit on the advanced context and the evidence that supports it in his judiciary, he presented the defense presented by the appellant for the nullity of the arrest and the absence of the justifications for the arrest and put him saying: "If the officer carries a traffic load to stop the drivers under the influence of the drug, the accused stopped as soon as he drove the car and discussed it, the signs of his falling under the influence of the drug, so he asked him to conduct a urine sample analysis. He agreed and it was found from the analysis to be positive for the drug tramadol, the incident officer had done in accordance with the correct law and the state of flagranty existed and the right to stop him. The payment is nullified by the nullity of the arrest and is not supported by the law or the reality of the law.". Whereas, while the judicial officer has the right to stop the appellant's car while it is driving on public roads to verify that the provisions of the Traffic Law are not violated if the incident officer stopped the appellant while driving the car to verify whether he was using the drug or not, as the judgment stated, in this case, the suspension requires conditions that must be met before taking this measure, namely that the person voluntarily places himself in a position of suspicion and suspicion and that this situation foretells a picture that requires the intervention of the appellant to reveal his truth, and the contested judgment concluded the legitimacy of the officer's suspension of the appellant simply because - by discussing it - he appeared to have signs of falling under the influence of the drug - without indicating what these signs appeared to the appellant. Whereas, it was established that justice does not harm the impunity of a criminal as much as it is harmed by infringements on the freedoms of people and their unjust arrest, and the Constitution has guaranteed these freedoms as the most sacred of the natural rights of man, as stipulated in Article 54/1 of it, that freedom is a natural right and is inviolable, except in the case of Flagrante delicto No one may be arrested, searched, imprisoned or restricted in any way except by a reasoned judicial order necessitated by the investigation. The effect of this provision is that any restriction on personal freedom as a natural human right may only be carried out in a state of flagrante delicto as defined by law under Article 66 of the Traffic Law amended by Law No. 121 of 2008 - applicable to the incident of the case - or the issuance of a permit from the competent authority. Article 66 of the Traffic Law No. 66 of 1973 amended by Law No. 121 of 2008 stipulates that " It is prohibited to drive any vehicle on a person who was under the influence of alcohol or anesthetic, and the judicial police officers did not violate the first paragraph of this article In one of the cases stipulated in Article 30 of the Criminal Procedure Law, to order the examination of the condition of the driver of the vehicle by technical means determined by the Minister of Interior in agreement with the Minister of Health, and it was decided that flagrante delicto is a description that accompanies the same crime regardless of the person of the perpetrator, and it is sufficient for its availability for the judicial officer to verify that the crime was watched by himself or realized its occurrence with any of his senses - equal to the sense of sight, hearing or smell - However, the courts should make sure that they do not approve the arrest or search that takes place on the grounds that the accused is in a state of flagrante delicto unless they verify that the perpetrator has witnessed or sensed the occurrence of the crime in a certain way that does not bear doubt or interpretation and does not dispense with it. He received its news by transfer from a third party, whether a witness or an accused, acknowledges himself as long as he did not witness it or witness an effect of its effects that foretells

its occurrence. The assessment of the circumstances that clothed and surrounded the crime at the time of its commission and the extent of its adequacy to establish the state of flagrante delicto is entrusted to the trial court, but this is conditional on the reasons and considerations on which the court is based Its assessment is valid to lead to the result it reached, and the facts according to the contested judgment as stated above - are that the incident officer arrested the appellant and took a urine sample from him for analysis just on suspicion of using a drug, the incident as such is not considered one of the cases of flagrante delicto described exclusively in Article 30 of the Code of Criminal Procedure and is not considered in the form of the lawsuit as an external manifestation that foretells the existence of a flagrante delicto crime that allows the judicial officer to arrest and search the accused, This stigmatizes the procedures for arresting, arresting and searching the appellant as null and void; because they were not based on legitimate, correct and consistent procedures and the provisions of the law, but rather tainted by deviation in the use of power and the birth of an arbitrary act tainted with nullity, it shall not be considered nor the evidence resulting from it, and the results of this procedure and the testimony of those who conducted it shall be null and void because they are arranged on it, and it is not valid to rely on the evidence derived from it in conviction, and the contested judgment shall be flawed by error in the application of the law that nullifies it and requires its revocation, and since the incident as it happened, there is no evidence in it Except for the evidence derived from the sampling procedure and the testimony of the appellant, the appellant must be acquitted pursuant to the first paragraph of Article 39 of the Law on Cases and Procedures of Appeal before the Court of Cassation promulgated by Law No. 57 of 1959 without the need to examine the rest of the aspects of the appeal] Appeal No. 14045 of 88 S issued at the session of February 13, 2021 (unpublished)

The Court of Cassation also ruled that: [Although the assessment of the circumstances that clothed and surrounded the crime at the time of its commission, and the extent of its sufficiency for the occurrence of the case of flagrante delicto is entrusted to the trial court, but this is subject to the condition that the reasons and considerations on which the court bases its assessment are valid to lead to the result it reached, and the statement of the contested judgment in the course of his statement of the case, and the statements of the officer and his dismissal, the nullity of the arrest and the search for the absence of the case of flagrante delicto - in the advanced context - does not provide for the establishment of the case of flagrante delicto as a crime that allows the officer of the incident The arrest of the appellant, because the mere attempt to escape after watching the police car, there is no justification for his arrest because of the absence of external manifestations that predict the occurrence of the crime and are in a state of flagrante delicto that allows the judicial officer to arrest and search, and the judicial officer received the news of the crime from others is not sufficient for the occurrence of the case of flagrante delicto as long as he did not witness a self-evident impact of its effects, and if the contested judgment violated this consideration and ended with the validity of this procedure, he may have erred in the application of the law and interpreted it in a way that requires its reversal without need To discuss the rest of the appeals. Whereas, the nullity of the arrest and search is legally required not to rely in the conviction judgment on any evidence derived from them, and therefore the testimony of the person who carried out this invalid procedure is not considered, and since the lawsuit, is obtained by the contested judgment, has no other evidence, the appellant must be acquitted pursuant to the first paragraph of Article 39 of the Law on Cases and Procedures of Appeal before the Court of Cassation promulgated by Law No. 57 of 1959, and the confiscation of the seized drug pursuant to the text of Article 42 of Law No. 182 of 1960 amended] Appeal No. 16578 of 88 of February 13, 2021 (unpublished).

It ruled that: [The mere fact that the accused walked on the side of the road at that hour and tried to escape when he saw the officer does not in itself indicate that the officer is aware in a certain way of the drug he carries, so exposure to him is an explicit arrest that is not justified] Appeal No. 37357 of 73 BC issued at the session of 18 April 2010 (unpublished).

It is also: [Since the detective officer decided that the accused was walking on the public road at night turning right and left between the shops, there is no reason to suspect and stop him because what he came to do is not inconsistent with the nature of things, and therefore his arrest and took him to the office of the department is a false arrest, and this invalidity is unfounded and withdraws to the search of the accused and the resulting finding of the narcotic substance, because what was built on falsehood is falsehood and it is not correct to rely on the testimony of those who made the false arrest] Appeal No. 3100 of 57 s issued at the session of December 23, 1987 and published in the second part of the Technical Office's book No. 38 page No. 1131 Rule No. 205.

It also ruled that: [The judgment stated in its collection of the case that it was the incident officer who asked the first appellant to get out of the car and open its backpack and that the latter. About that request, where the drug was seized, and then the judgment returned in the place of his dismissal to plead the nullity of the suspension and stated that the said appellant was the one who opened the car bag voluntarily and on his own. Taking the judgment in both forms indicates the difference of his idea from the elements of the incident and its instability in the doctrine of the court. The stability that makes it in the judgment of the fixed facts so that it is not possible to extract its elements, whether related to that incident or to the application of the law to it, which makes it impossible for the Court of

Subsection 7: Evidence of Evidence Procedures in Minutes

To ensure the validity of the evidence collected by the judicial officer and to confirm that the procedures were conducted in compliance with the law, the legislator requires that the procedures be documented in official reports signed by the officer. These reports must detail all steps taken during the evidence-gathering process, specifying the time and place of each action. Additionally, these reports must include the signatures of witnesses and experts whose statements were recorded. In practice, if a witness is unable to sign, their stamp or thumbprint is taken instead.

These reports, along with the seized documents and items, are then sent to the Public Prosecution (Article 24/2 of the Criminal Procedure Code). The information in these reports is useful in verifying the officer's functional and territorial jurisdiction and in clarifying the evidentiary elements recorded in them.

In essence, these reports are merely records for documenting the situation and collecting information. Their legal effect is limited to recording the statements received by the judicial officer and the data or observations they include, for the purpose of preserving the available information or evidence in the case. However, documenting such information or evidence is not solely dependent on the preparation of a report. The judicial officer may testify about what occurred before the investigative authority or the court. Therefore, the absence of such a report does not invalidate the evidence provided [228].

Failure to document every action taken by the judicial officer during the evidence-gathering process does not render the process invalid. The legal requirements for documentation are intended as organizational or advisory measures[229].

The law does not prescribe a specific format for signing investigation reports; it is sufficient for the court to be assured of the authenticity of the signatures and that they were made by the person who prepared the report[230].

The omission of the statement of the capacity of the judicial officer and his territorial jurisdiction is not flawed by the judgment, as there is nothing in the law that requires mentioning this statement

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Cassation to recognize any basis on which the court formed its belief in the case and the soundness of the reasons put forward by the appellant's defense, as well as the disclosure that the incident was not clear to the court to the extent that its error in assessing the responsibility of the said appellant, so that the judgment becomes contradictory in the statement of the incident is contradictory and must be reversed] Appeal No. 85875 of 76 Q issued at the hearing of July 16, 2007 (unpublished)..

([228]) Appeal No. 1329 of 29 S issued in the session of 4/1/1960 and published in Part 1 of the Technical Office's letter No. 11 page No. 7, Appeal No. 544 of 19 S issued in the session of 18/4/1949 and published in the Technical Office's letter No. 7 P No. Part 1 page No. 838..

([229]) Appeal No. 1329 of 29 S issued at the session of January 4, 1960 and published in the first part of the Technical Office letter No. 11 page No. 7 rule No. 1, Appeal No. 1107 of 28 S issued at the session of November 3, 1958 and published in the third part of the Technical Office letter No. 9 page No. 866 rule No. 213.

([230]) Appeal No. 3708 of 65 BC issued at the session of 25 May 1997 and published in the first part of the book of the Technical Office No. 48 page No. 642 rule No. 96.

in conjunction with his testimony because the principle in the procedures is correct and that the judicial officer carries out its work within the limits of his jurisdiction [231].

In some cases, it happens that the prosecution is notified and the member of the prosecution immediately moves, and the judicial officer has not taken any action to prove it in his record so as not to leave a way to challenge his actions later.

It is not required that the record be written by a clerk because it is not required by law, so the judicial officer may write it himself, and if the record is written by a clerk, it is not invalid as it is written in the presence of the officer and under his eyes, but the judicial officer must sign it, in recognition of its validity, equal in this case that the record is for inferences or investigation[232].

The assistants of the judicial bailiff may write the minutes, because the collection of evidence is not limited to the officers of the judicial bailiff, but the law authorizes this to their assistants, and as long as they have been assigned to assist the judicial bailiffs in performing what violates the scope of their job, they have the right to write minutes of what they have done [233].

Whereas the trial court may be convinced of any evidence in the lawsuit, regardless of its source in the papers, the inference is aimed at providing evidence that can be claimed with evidence, but the court may take what is stated in the inference record and derive its conviction from it, even if it contradicts what is stated in the investigation. The matter is up to its conviction, provided that it demonstrates this with sound logic.

As long as the inference is a source of conviction for the court, the court monitors it from two angles: (The first) is legitimacy. If the inference procedures violate the guarantees specified by the Constitution and the law to protect personal freedom, they become flawed by nullity. (The second) is objectivity through freedom of conviction. The court may put forward the information contained in the inference record if it is not satisfied with its accuracy or its conformity with the truth.

Subsection 8: Custody

Article 40 of Law No. 94 of 2015 stipulates that: "A judicial officer, when faced with the imminent danger of a terrorist crime and when necessary to address this danger, has the right to collect evidence related to it, search for the perpetrators, and keep them in custody for a period not exceeding 24 hours."

([231]) Appeal No. 2853 of 57 S issued on November 12, 1987 and published in the second part of the book of the Technical Office No. 38 page No. 948 rule No. 174.

([232]) Appeal No. 1449 of 21 S issued at the session of March 3, 1952 and published in the second part of the book of the Technical Office No. 3 page No. 758, Appeal No. 1479 of 13 S issued at the session of June 21, 1943 and published in the book of the Technical Office No. 6 P No. 1 page No. 301, Appeal No. 646 of 9 S issued at the session of March 13, 1939 and published in the book of the Technical Office No. 4 P No. 1 page No. 486.

([233]) Appeal No. 1408 of 41 s issued at the session of January 10, 1972 and published in the first part of the technical office book No. 23 page No. 42, Appeal No. 1329 of 29 s issued at the session of January 4, 1960 and published in the first part of the technical office book No. 11 page No. 7..

Law enforcement officers shall prepare reports on the procedures and the detainee(s) shall be referred along with the report to the public prosecutor or the relevant investigating authority, according to the case.

For the same necessity set forth in the first paragraph of this Article and before the expiration of the period specified, the Public Prosecution or the relevant investigating authority may order the extension of custody once for a period not exceeding seven days. The order shall be issued with the causes by at least an Attorney General or the equivalent.

The custody period shall be calculated as part of the precautionary detention, and the accused shall be kept in a legally-designated area.

The provisions of the first paragraph of Article (44) of this Law shall apply to grievances against continuation of custody.[234]

The above text makes it clear that the first paragraph of Article 40 of the Anti-Terrorism Law grants judicial officers the authority to detain a perpetrator of a terrorist crime for no more than twenty-four hours.

Custody carries the same meaning as arrest, as it involves restricting a person's freedom by apprehending and holding them, even for a short period, in preparation for taking action against them. In this regard, the Court of Cassation ruled that arresting a person entails restricting their freedom and holding them, even for a short time, in preparation for taking certain measures against them. The law prohibits the arrest of any person except with authorization or permission from the competent investigative authority[235].

The clearest indication of this is that Article 40 itself stipulates the requirement to present the detained person, along with the report, to the Public Prosecution and to place the detained individual in legally designated facilities. It also specifies that the period of custody is counted as part of the pretrial detention period. This means that the apparent concept of detention derived from these provisions involves restricting a person's freedom of movement, which more precisely equates to "arrest." In addition, the law grants the Public Prosecution the authority to extend the custody period to no more than fourteen days.

The Egyptian Code of Criminal Procedure permits judicial officers to arrest individuals only in cases of flagrante delicto and for a maximum period of 24 hours. However, the Anti-Terrorism Law allows judicial officers to detain a perpetrator of a crime for up to twenty-four hours.

A- Continuation of Custody

The third paragraph of Article 40 of the Anti-Terrorism Law stipulates: «... The Public Prosecution or the competent investigative authority, for the same necessity stipulated in the first paragraph

([234]) Article 40 of Law No. 94 of 2015 regarding the issuance of the Counter-Terrorism Law, as amended by Law No. 11 of 2017.

([235]) Appeal No. 30455 of 69 S, Session of 6 December 2007, Technical Office 58, Rule No. 146, page 779.

of this article and before the expiration of the period specified therein, may order the continuation of detention for fourteen days, renewable only once, and the order must be justified and issued by at least an Assistant Prosecutor General or an equivalent authority."

This means that the Public Prosecution or the competent investigating authority, due to the need to confront the threat of terrorism and before the expiry of the twenty-four-hour period granted to the judicial officer, may order the continuation of the seizure for a period of fourteen days, and it shall not be renewed except once, and the order shall be issued on the grounds of at least a public defender or its equivalent.

That is, the Public Prosecution or the competent investigation authority has the right to detain the accused for a period of twenty-eight days without presenting the matter to the judge.

Whereas the second paragraph of Article 36 of the Code of Criminal Procedure states that: «... The Public Prosecution must interrogate him within twenty-four hours, and then order his arrest or release."

Article 40 of the Anti-Terrorism Law did not require the interrogation of the accused before issuing the order to continue to detain him for fourteen days. It is permissible to issue the order to continue to detain the accused for the necessity required to confront the threat of terrorism for a period of fourteen days, which is renewed for one time so that the legislator grants the Public Prosecution the right to detain the accused for up to twenty-eight days without questioning him.

Interrogation is an important investigation procedure that aims to determine the truth of the charge from the same accused and to reach a confession from him that supports it or a defense from him that denies it. On this basis, it is a proof procedure of a dual nature, the first is that it is an investigation procedure, and the second is that it is considered a defense procedure.

Therefore, the Code of Criminal Procedure surrounds the interrogation of the accused with three types of guarantees: (first) related to the authority competent to interrogate the accused, (second) related to enabling the accused to express his statements in complete freedom, (third) related to enabling the accused to have the right of defense.

All these safeguards stem from the presumption of innocence. This principle requires treating the accused as innocent until proven guilty, which entails ensuring their freedom. Interrogation should not be understood as a means for the accused to prove their innocence; that innocence is presumed and does not require proof. Instead, interrogation allows the accused to review the evidence against them, challenge it, and address its implications in a framework of their right to defense.

Additionally, the accused has the right to remain silent and refuse to answer questions posed to them. Some constitutions affirm this principle, such as Article 55, Paragraph 3, of the Egyptian Constitution, which states:
"... The accused has the right to remain silent. Any statement proven to have been made by a detainee under duress, or the threat of duress, shall be disregarded and inadmissible."

Certain legislations also mandate that investigators inform the accused of their right to remain silent. For example, Article 78 of the Italian Code of Criminal Procedure[236].

Indian law has tended to increase the guarantee of this right, to the effect that the accused who declares his readiness to confess that his statement may be used against him during the trial must be warned, while also giving him a period of reflection of twenty-four hours [237].

As long as the silence of the accused and his failure to respond is the use of a right established by law derived from his freedom to make statements, the court may not deduce from the silence of the accused a presumption against him.

Regarding the legality of interrogation practices where the investigator intentionally exhausts the accused by prolonging detailed questioning over several hours, it is generally accepted that extended interrogations fatigue the accused and impact their will. There is no fixed time limit for the length of an interrogation; instead, the focus is on its effects on the accused's mental faculties due to exhaustion.

Interrogation assumes that the accused maintains freedom of choice, necessitating all guarantees to preserve this freedom. If the investigator deliberately extends the interrogation to exhaust the accused and coerce a confession under difficult psychological circumstances, they breach the impartiality required of them. This breach undermines their procedural competence in conducting the investigation.

Assessing the impact of such prolonged interrogations is a subjective matter left to the discretion of the investigator under the supervision of the trial court.[238]

B. Calculating the period of custody within the period of pretrial detention

The fourth paragraph of Article 40 of the Anti-Terrorism Law stipulates that: "The period of detention shall be counted within the period of pretrial detention...", and there is no evidence that the detention carries the meaning of actual arrest, as it is a restriction on the personal freedom of the accused.

C. Placement of the accused in one of the legally designated places

The fourth paragraph of Article 40 stipulates that the accused shall be detained in one of the legally designated places. Law No. 396 of 1956 on the organization of community correction and rehabilitation centers states that the accused in custody shall be placed in a geographical correction center. Article 1 bis of the Law on the Organization of Community Correction and

(236) Pespia. Rapport، op. cit، P. 14..

(237) Trechrel. Reppat Général، collogue préparatoire sur la protection des droits de l'homme en procédure، pénale، Vienne 29 - 31، marrs 1978..

(238) Article 224 of the Argentine Code of Criminal Procedure stipulates that if the interrogation takes a long time and the accused loses his clarity of mind or shows signs of exhaustion, the judge must close the investigation until the accused regains his calm.

Rehabilitation Centers promulgated by Law No. 396 of 1956 and added to Law No. 57 of 1968 stipulates that: "Anyone who is detained, detained, detained or deprived of his liberty in any way shall be placed in one of the correction and rehabilitation centers set forth in the previous article, or one of the places specified by a decision of the Minister of Interior to which all the provisions contained in this law apply, provided that the right of entry stipulated in Article 85 shall be granted to the Attorney General or his deputy, at least at the level of the Chief Prosecutor."

D- Grievance against the custody order

The fifth paragraph of Article 40 stipulates that: «... The grievance against the order to maintain the reservation shall be subject to the provisions prescribed in the first paragraph of Article (44) of this Law."

Article 44 of the Anti-Terrorism Law No. 94 of 2015 stipulates that: "The accused and others concerned may appeal, without fees, the order issued to remand him in custody or to extend this detention before the competent court.

The court shall decide on the appeal by a reasoned decision within three days from the date of its submission, after hearing the statements of the Public Prosecution or the competent investigation authority and the defense of the appellant. If this period expires without dismissal, the arrested accused must be released immediately.

It is clear from this that Article 44 of the Anti-Terrorism Law allowed the custodian or other concerned parties to file a grievance against the order to maintain the reservation issued by the prosecution or to extend it before the competent court [239].

The fifth paragraph of Article 40 differentiated between the detainee and the pre-trial detainee. The second paragraph of Article 45 obligated the court to decide on the appeal of the pre-trial detainee against the detention order or to extend this detention by a reasoned decision within three days from the date of its submission, after hearing the statements of the Public Prosecution or the competent investigation authority and the defense of the appellant.

The fifth paragraph of Article 44 of the Anti-Terrorism Law also requires the immediate release of the arrested accused if his appeal is not decided within the legally prescribed period of three days.

While the fifth paragraph of Article 40 referred to the grievance against the order of reservation to the first paragraph of Article 44 only, to the effect that the grievance of the person against whom the reservation is made must be adjudicated within the period of three days prescribed by law.

E- Distinction Between Pretrial Detention and Custody

To clarify the differences between the system of pretrial detention and the system of custody, the following points can be drawn from reading the Anti-Terrorism Law and the Code of Criminal Procedure:

([239]) His lawyer or any of the relatives of the detainee shall be considered concerned.

1. Type of Crime
    - Pretrial Detention: Pretrial detention requires the accused to have committed:
        1. A felony or a misdemeanor punishable by imprisonment for more than three months (Article 134/1 of the Code of Criminal Procedure).
        2. A misdemeanor punishable by imprisonment, provided that the accused does not have a fixed and known residence in Egypt (Article 134/2 of the Code of Criminal Procedure).
    - Custody:
      Custody may be applied to the accused when necessary to address the danger of a terrorist crime (Article 40 of the Anti-Terrorism Law).
2. Availability of Evidence
    - Pretrial Detention: The law requires sufficient evidence against the accused to support the allegations (Article 134 of the Code of Criminal Procedure).
    - Custody:
      The law does not require evidence against the accused for custody.
3. Interrogation of the Accused
    - Pretrial Detention: The legislator requires the investigator to interrogate the accused before issuing a detention order, within 24 hours of executing the detention order (Article 36/2 of the Code of Criminal Procedure).
    - Custody: The legislator does not require interrogating the accused before issuing or renewing a custody order.
4. Notification of Arrest
    - Pretrial Detention: The law mandates that the detainee must be informed of the reasons for their detention (Article 139/1 of the Code of Criminal Procedure).
    - Custody: The law requires that individuals placed in custody under the Anti-Terrorism Law be informed of the reasons for their custody (Article 41 of the Anti-Terrorism Law).
5. Right to Contact and Legal Counsel
    - Pretrial Detention: The detainee has the right to contact individuals they wish to inform and to seek legal counsel, and they must be promptly informed of the charges against them (Article 139/1 of the Code of Criminal Procedure).
    - Custody: The detainee has the right to contact relatives and seek legal counsel, but this right may be restricted if it conflicts with the needs of the investigation (Article 41 of the Anti-Terrorism Law).

6. Duration
    - Pretrial Detention: A detention order issued by the Public Prosecution is valid for only four days.
    - Custody: The Public Prosecution or the competent investigative authority may extend custody for fourteen days, renewable only once (Article 40 of the Anti-Terrorism Law).
7. Renewal of Duration
    - Pretrial Detention: The renewal of pretrial detention must be presented to a magistrate before the expiration of the four-day period. The magistrate may reject the extension, requiring the immediate release of the accused, or approve the extension for periods not exceeding a total of 45 days, with each period not exceeding 15 days (Articles 142 and 143 of the Code of Criminal Procedure).
    - Custody: Custody may be renewed only once by a justified order from at least an Assistant Prosecutor General or equivalent authority (Article 40 of the Anti-Terrorism Law).
8. Details Required in Orders
    - Pretrial Detention: Every order must include the accused's name, title, occupation, residence, the charges against them, the date of the order, the judge's signature, and the official seal. The detention order must also instruct the prison warden to receive the accused and specify the applicable legal provisions (Article 127 of the Code of Criminal Procedure).
    - Custody: The law does not require specific formal details in the custody order except for providing justification for the order or its extension (Article 40 of the Anti-Terrorism Law).
9. Appeals or Grievances
    - Pretrial Detention: Appeals against pretrial detention orders are filed with the appellate misdemeanor court in the consultation chamber if the order is issued by the investigating judge. If issued by the appellate court, the appeal is heard by the criminal court in the consultation chamber. If issued by the criminal court, it is heard by the competent circuit. Appeals must be decided within 48 hours, failing which the accused must be released. Decisions of the consultation chamber are final (Article 167 of the Code of Criminal Procedure).
    - Custody: The detainee or any other concerned party may appeal the custody order without fees before the competent court (Article 44 of the Anti-Terrorism Law).

From the above, it is evident that custody is a system similar to pretrial detention, allowing the Public Prosecution to restrict the accused's freedom for up to twenty-eight days.

The distinction lies in the appeal process for custody orders versus pretrial detention orders. While the maximum duration for a pretrial detention order issued by the Public Prosecution is four days, custody under the Anti-Terrorism Law may extend up to twenty-eight days, during which the detainee may be prohibited from contacting relatives or their lawyer for "investigative needs."

Subsection 9: Enforced Disappearance

Article 1 of the International Convention for the Protection of All Persons from Enforced Disappearance states: "1. No one shall be subjected to enforced disappearance.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other state of exception, may be invoked to justify enforced disappearance. "

In international human rights law, enforced disappearance is defined as "the abduction or secret imprisonment of a person by a state, a political organization, or a third party with the authorization, support, or acquiescence of a state or a political organization, with the abductee refusing to acknowledge the fate and whereabouts of the person, for the purpose of placing the victim outside the protection of the law."

On the other hand, the International Criminal Court defined enforced disappearance as: "the arrest, detention, or abduction of any person/persons by a state or political organization, or with its permission, support, or acquiescence to this act, and then its refusal to acknowledge that these persons are deprived of their liberty or to give information about their fate or whereabouts with the aim of depriving them of the protection of the law for a long period of time."

Subsection 10: The Permissibility of Having a Lawyer During the Evidence Collection Process

Article 3 of the Law on Advocacy states: "Without prejudice to the provisions of the laws regulating judicial bodies and the provisions of the Civil and Commercial Procedure Law, no one other than lawyers may practice the profession of advocacy. Advocacy includes:

1- Representing concerned parties before courts, arbitration panels, administrative bodies with judicial jurisdiction, criminal and administrative investigation authorities, and police stations, as well as defending them in cases brought by or against them and carrying out pleadings and judicial procedures related thereto."

It is evident from the wording of this article that the lawyer's right to attend is not limited to evidence collection conducted by police officers who have judicial authority but also extends to other entities that hold this authority.

However, under the provisions of Article 333 of the Code of Criminal Procedure, the right to challenge the validity of evidence collection procedures is forfeited if the accused has a lawyer and the procedure was conducted in their presence without objection.

Section 3: Defining the Concept of Flagrante Delicto

Subsection 1: Definition and Characteristics of Flagrante

Article 30 of the Code of Criminal Procedure states:
"A crime is considered to be in flagrante delicto if it is committed or immediately discovered shortly thereafter.

A crime is also deemed to be in flagrante delicto if the victim pursues the perpetrator, or if the public pursues the perpetrator with cries immediately after its occurrence, or if the perpetrator is found shortly after the crime carrying tools, weapons, goods, documents, or other items that indicate their involvement as the perpetrator or an accomplice. Additionally, it is deemed flagrante delicto if the perpetrator is found bearing marks or signs at that time that confirm their involvement."

The state of flagrante delicto requires that the judicial officer directly observe the crime or perceive it through one of their senses[240].

([240]) Appeal No. 2410 of 86 Judicial Year, issued on the session of March 24, 2018 (unpublished); Appeal No. 208 of 85 Judicial Year, issued on the session of April 6, 2017 (unpublished); Appeal No. 11681 of 86 Judicial Year, issued on the session of March 28, 2017 (unpublished); Appeal No. 26133 of 86 Judicial Year, issued on the session of February 28, 2017 (unpublished); Appeal No. 18565 of 84 Judicial Year, issued on the session of April 11, 2016, published in Technical Office Book No. 67, Page No. 433, Rule No. 50; Appeal No. 5543 of 84 Judicial Year, issued on the session of February 27, 2016 (unpublished); Appeal No. 29498 of 84 Judicial Year, issued on the session of February 7, 2016 (unpublished); Appeal No. 7446 of 84 Judicial Year, issued on the session of December 6, 2014, published in Technical Office Book No. 65, Page No. 938, Rule No. 124; Appeal No. 1345 of 82 Judicial Year, issued on the session of October 11, 2014, published in Technical Office Book No. 65, Page No. 652, Rule No. 84; Appeal No. 3316 of 83 Judicial Year, issued on the session of March 6, 2014, published in Technical Office Book No. 65, Page No. 148, Rule No. 13; Appeal No. 1877 of 82 Judicial Year, issued on the session of March 6, 2013 (unpublished); Appeal No. 2100 of 82 Judicial Year, issued on the session of January 2, 2013 (unpublished); Appeal No. 675 of 75 Judicial Year, issued on the session of October 21, 2012, published in Technical Office Book No. 63, Page No. 541, Rule No. 93; Appeal No. 8077 of 81 Judicial Year, issued on the session of April 7, 2012 (unpublished); Appeal No. 3188 of 81 Judicial Year, issued on the session of November 27, 2011 (unpublished); Appeal No. 8517 of 79 Judicial Year, issued on the session of October 5, 2011 (unpublished); Appeal No. 11 of 81 Judicial Year, issued on the session of June 7, 2011 (unpublished); Appeal No. 4994 of 80 Judicial Year, issued on the session of April 19, 2011 (unpublished); Appeal No. 6595 of 79 Judicial Year, issued on the session of March 20, 2011 (unpublished); Appeal No. 4532 of 79 Judicial Year, issued on the session of March 17, 2011 (unpublished); Appeal No. 9069 of 79 Judicial Year, issued on the session of October 2, 2010 (unpublished); Appeal No. 19039 of 73 Judicial Year, issued on the session of February 17, 2010, published in Technical Office Book No. 61, Page No. 134, Rule No. 19; Appeal No. 42026 of 72 Judicial Year, issued on the session of December 6, 2009 (unpublished); Appeal No. 18645 of 72 Judicial Year, issued on the session of November 8, 2009, published in Technical Office Book No. 60, Page No. 420, Rule No. 57; Appeal No. 21669 of 77 Judicial Year, issued on the session of March 8, 2009 (unpublished); Appeal No. 36406 of 73 Judicial Year, issued on the session of November 4, 2008 (unpublished); Appeal No. 19083 of 76 Judicial Year, issued on the session of March 5, 2007 (unpublished); Appeal

The basis of this condition is the presence of external indications that inherently reveal the occurrence of the crime. It is sufficient for these external indications to be confirmed by any sense, provided that this confirmation is done in a manner that is certain and leaves no room for doubt[241].

No. 51962 of 75 Judicial Year, issued on the session of June 3, 2006 (unpublished); Appeal No. 89956 of 75 Judicial Year, issued on the session of October 1, 2006, published in Technical Office Book No. 57, Page No. 798, Rule No. 84; Appeal No. 20054 of 74 Judicial Year, issued on the session of May 7, 2006, published in Technical Office Book No. 57, Page No. 603, Rule No. 64; Appeal No. 5843 of 66 Judicial Year, issued on the session of November 17, 2005, published in Technical Office Book No. 56, Page No. 594, Rule No. 91; Appeal No. 63297 of 73 Judicial Year, issued on the session of May 3, 2005, published in Technical Office Book No. 56, Page No. 271, Rule No. 41; Appeal No. 12655 of 69 Judicial Year, issued on the session of March 10, 2003, published in Technical Office Book No. 54, Page No. 402, Rule No. 43; Appeal No. 8915 of 65 Judicial Year, issued on the session of November 19, 1997, published in Volume 1 of Technical Office Book No. 48, Page No. 1293, Rule No. 195; Appeal No. 9166 of 65 Judicial Year, issued on the session of July 6, 1997, published in Volume 1 of Technical Office Book No. 48, Page No. 749, Rule No. 114; Appeal No. 5858 of 65 Judicial Year, issued on the session of May 4, 1997, published in Volume 1 of Technical Office Book No. 48, Page No. 493, Rule No. 72; Appeal No. 2605 of 62 Judicial Year, issued on the session of September 15, 1993, published in Volume 1 of Technical Office Book No. 44, Page No. 703, Rule No. 110; Appeal No. 46438 of 59 Judicial Year, issued on the session of October 21, 1990, published in Volume 1 of Technical Office Book No. 41, Page No. 922, Rule No. 161; Appeal No. 11226 of 59 Judicial Year, issued on the session of March 11, 1990, published in Volume 1 of Technical Office Book No. 41, Page No. 519, Rule No. 86; Appeal No. 15033 of 59 Judicial Year, issued on the session of January 3, 1990, published in Volume 1 of Technical Office Book No. 41, Page No. 41, Rule No. 4; Appeal No. 2806 of 57 Judicial Year, issued on the session of November 1, 1987, published in Volume 2 of Technical Office Book No. 38, Page No. 917, Rule No. 169; Appeal No. 2913 of 54 Judicial Year, issued on the session of April 3, 1985, published in Volume 1 of Technical Office Book No. 36, Page No. 524, Rule No. 88; Appeal No. 2905 of 53 Judicial Year, issued on the session of January 31, 1984, published in Volume 1 of Technical Office Book No. 35, Page No. 95, Rule No. 19; Appeal No. 2174 of 53 Judicial Year, issued on the session of November 10, 1983, published in Volume 1 of Technical Office Book No. 34, Page No. 940, Rule No. 187; Appeal No. 1622 of 53 Judicial Year, issued on the session of November 9, 1983, published in Volume 1 of Technical Office Book No. 34, Page No. 934, Rule No. 186; Appeal No. 826 of 53 Judicial Year, issued on the session of May 25, 1983, published in Volume 1 of Technical Office Book No. 34, Page No. 687, Rule No. 138; Appeal No. 2475 of 51 Judicial Year, issued on the session of February 4, 1982, published in Volume 1 of Technical Office Book No. 33, Page No. 149, Rule No. 30; Appeal No. 1445 of 49 Judicial Year, issued on the session of February 27, 1980, published in Volume 1 of Technical Office Book No. 31, Page No. 301, Rule No. 58; Appeal No. 657 of 43 Judicial Year, issued on the session of December 4, 1973, published in Volume 3 of Technical Office Book No. 24, Page No. 1139, Rule No. 234; Appeal No. 1841 of 39 Judicial Year, issued on the session of March 15, 1970, published in Volume 1 of Technical Office Book No. 21, Page No. 355, Rule No. 88; Appeal No. 994 of 36 Judicial Year, issued on the session of October 4, 1966, published in Volume 3 of Technical Office Book No. 15, Page No. 592, Rule No. 116 1964.

([241]) See Appeal No. 23745 of 87 S issued at the session of November 25, 2018 (unpublished), Appeal No. 10004 of 85 S issued at the session of May 19, 2016 and published in the letter of the Technical Office No. 67 page No. 543 rule No. 61, Appeal No. 5216 of 85 S issued at the session of October 12, 2015 and published in the letter of the Technical Office No. 66 page No. 673 rule No. 99, Appeal No. 7455 of 81 S issued at the session of May 5, 2013 (unpublished), Appeal No. 6442 of 82 S issued at the 4th session of April 2013 and published in the Technical Office's letter No. 64, page No. 458, rule No. 60, Appeal No. 1877 of 82 S issued at the 6th session of March 2013 (unpublished), Appeal No. 3283 of 81 S issued at the 4th session of November 2012 (unpublished), Appeal No. 12181 of 77 S issued at the 14th session of January 2012 (unpublished), Appeal No. 4033 of 81 S issued at the 1st session of January 2012 and published in the Technical Office's letter No. 63 Page No. 33 Rule No. 3, Appeal No. 66 of 81 S issued at the hearing of 8 September 2011 (unpublished), Appeal No. 8583 of 80 S issued at the hearing of 27 March 2011 (unpublished), Appeal No. 6759 of 73 S issued at the hearing of 20 January 2010 and published in the letter of the Technical Office No. 61 Page No. 52 Rule No. 8, Appeal No. 34594 of 72 S issued at the hearing of 21 December 2009 (unpublished), Appeal No. 12734 of 69 S issued at the session of March 5, 2009 (unpublished), Appeal No. 36406 of 73 S issued at the session of November 4, 2008 (unpublished), Appeal No. 14617 of 71 S issued at the session of December 6, 2007 (unpublished), Appeal No. 20481 of 72 S issued at the session of November 5, 2007 and published in the book of the Technical Office No. 58, page No. 672, rule No. 129, Appeal No. 9407 of 69 S issued at the session of October 8, 2007 and published in the book of the Technical Office No. 58, page No. 585, rule No. 113, Appeal No. 9852 of 65 S issued at the session of October 21, 2004 (unpublished), Appeal No. 17435 of 70 S issued at the session of March 22, 2004 (unpublished), Appeal No. 26876 of 67 S issued at the session of April 3, 2000 (unpublished), Appeal No. 9166 of 65 S issued at the session of July 6, 1997 and published in the first part of the Technical Office's book No. 48, page No. 749, rule No. 114, Appeal No. 19739 of 61

Flagrante delicto is a condition inherent in the crime itself, not the person who committed it [242].

It is not necessary for flagrante delicto to see the perpetrator committing the crime, but it is sufficient for the witness to have attended the commission of the crime himself and realized its occurrence in any sense equal to the sense of sight, hearing or smell when this perception is in a certain way that cannot be doubted[243].

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s issued at the session of October 3, 1993 and published in the first part of the Technical Office letter No. 44 page No. 740 rule No. 115, Appeal No. 2806 of 57 s issued at the session of November 1, 1987 and published in the second part of the Technical Office letter No. 38 page No. 917 rule No. 169, Appeal No. 2174 of 53 s issued at the session of November 10, 1983 and published in the first part of the Technical Office letter No. 34 page No. 940 rule No. 187, Appeal No. 2475 of 51 s issued at the session of February 4, 1982 Published in the first part of Technical Office Letter No. 33 Page No. 149 Rule No. 30, Appeal No. 1445 of 49 S issued at the session of February 27, 1980 and published in the first part of Technical Office Letter No. 31 Page No. 301 Rule No. 58, Appeal No. 657 of 43 S issued at the session of December 4, 1973 and published in the third part of Technical Office Letter No. 24 Page No. 1139 Rule No. 234, Appeal No. 994 of 36 S issued at the 4th session of October 1966 and published in Part III of Technical Office Letter No. 17 Page 911 Rule No. 168, Appeal No. 433 of 34 S issued at the 12th session of October 1964 and published in Part III of Technical Office Letter No. 15 Page 592 Rule No. 116, Appeal No. 1753 of 31 S issued at the 9th session of April 1962 and published in Part II of Technical Office Letter No. 13 Page 322 Rule No. 80, Appeal No. 1747 of 29 S issued at the 4th session of April 1960 and published in Part II From Technical Office Letter No. 11 Page No. 308 Rule No. 61, Appeal No. 683 of 29 S issued at the session of 19 October 1959 and published in Part III of Technical Office Letter No. 10 Page No. 793 Rule No. 169..

([242]) See Appeal No. 5216 of 85 S issued at the 12th session of October 2015 and published in Technical Office Letter No. 66, page 673, rule No. 99, Appeal No. 5232 of 82 S issued at the 13th session of January 2013 (unpublished), Appeal No. 8583 of 80 S issued at the 27th session of March 2011 (unpublished), Appeal No. 31919 of 73 S issued at the 28th session of March 2010 (unpublished), Appeal No. 63297 of 73 S issued at the 3rd session of May 2005 and published in Technical Office Letter No. 56, page 271, rule No. 41, Appeal No. 9366 of 65 S issued at the 26th session of July 2004 (unpublished).

([243]) The Court of Cassation ruled that: [The officer, while passing through the department, smelled the narcotic from a tobacco roll that the appellant smoked, and the appellant acknowledged the reasons for the appeal that the statements of the incident officer in the inferences that one of the confiscation of secrecy informed him about the appellant, so he went to him and watched him smoke a roll of tobacco emitting the smell of cannabis, is one meaning in the indication that the appellant was in possession of a tobacco roll containing cannabis, which is the meaning in which his responsibility for the crime of obtaining the seized drug is achieved] Appeal No. 23745 of 87 s issued at the session of November 25, 2018 (unpublished).

The Court of Cassation also ruled that [the case of flagrante delicto is not available simply by trying to flee when seeing the police officers, and that the mere appearance of confusion and confusion, no matter how old they are, cannot be considered sufficient evidence of the existence of an accusation that justifies their arrest and search] Appeal No. 23705 of 84 S issued at the session of March 8, 2016 (unpublished)

It ruled that: [Flagrante delicto is a condition inherent in the crime itself and not a person who committed it, and the result of the incident mentioned in the judgment is that there is no evidence that the accused has been seen in a state of flagrante delicto described exclusively in Article 30 of the Criminal Procedure Law, which is not provided by the mere knowledge of the police officer who arrested him that he is engaged in trafficking in narcotic substances or trying to escape when he sees him, and that the mere appearance of confusion and confusion, no matter how great, cannot be considered sufficient evidence of the existence of an accusation that justifies his arrest and search. Whereas, what happened to the appellant is an explicit arrest that is not justified and has no basis in the law] Appeal No. 3298 of 56 S issued at the session of 21 October 1986 and published in the first part of the book of the Technical Office No. 37 page No. 788 rule No. 151.

It ruled that: [The case of flagrante delicto requires that the judicial officer verify that the crime has been witnessed by himself or that he is aware of it with a sense of his senses, and it is not indispensable to receive its news by transfer from a third party who is a witness or an accused person who acknowledges himself, and although the consent of the accused to the procedure that resulted in the seizure of the drug is scheduled to drop the restrictions set by the street to protect his personal freedom, it is correct to rely on the evidence derived from this procedure and invoke it before him However, the condition for this is that the defendant's consent is explicit, free and unequivocal after being aware of the nature, circumstances and purpose of this procedure, and the consequences that may result from it and the absence of a justification that entitles the person requesting it to the authority to conduct it without

his consent, so that it is true to say that there is a specific place to which the consent is directed, so that it is productive of its effect, and it is then equal that the defendant's consent is proven in writing or the court determines his proof of the facts and circumstances of the case, and it is clear from the records of the contested judgment and the included vocabulary in order to achieve the face of the appeal - that the incident officer presented the appellant to the medical department to conduct the medical examination scheduled administratively - to obtain a license Professional leadership - without informing him of the nature of this procedure, its circumstances, its purpose and its effects, this procedure may have been carried out without the consent of the appellant - in its legal sense - and then this procedure may have been null and void, and the report of the medical team did not reveal the narcotic substance found in the sample taken from the appellant and whether it is one of the narcotic substances listed in the attached tables, in the amended Narcotic Drugs Law No. 182 of 60 or not, and it was clear from the included vocabulary that The officer of the incident testified in the investigations of the prosecution that by confronting the appellant with the result of the medical team denied his use of narcotic substances, the incident in this way is not considered one of the cases of flagrante delicto described exclusively in Article 30 of the Criminal Procedure Law and is not considered in the form of a lawsuit as an external manifestation that indicates the occurrence of the crime and thus allows the judicial officer to make the arrest of the appellant - and what the officer of the incident proved in the minutes of the arrest was that he presented the appellant to the Public Prosecution after his appearance before him and confronting him with the result of the medical team - but it is in fact and by way of mental necessity that includes his arrest - because of the restriction involved For his freedom before his presentation, and therefore the procedure of arresting the appellant is null and void - as well as its nullity because it is the result of a null procedure - and also nullifies the results of the forensic medical report that was based on the decision of the Public Prosecution without the consent of the appellant and in application of the rule of all that results from the nullity, it is null and void, and the requirement of nullity of arrest and the forensic medical report - legally - not to rely on any evidence derived from it and therefore does not count the testimony of the person who carried out the null and void procedure, and it was established from the codes of judgment and vocabulary - contained that the only two evidences in the lawsuit are what resulted - the forensic medical report and the testimony of the person who carried out the arrest, the judgment was relied on these two null evidences in convicating the appellant is null and contrary to the law on the basis of the conviction on illegal evidence] Appeal No. 8077 of 81 s issued at the session of April 7, 2012 (unpublished).

It also ruled that: [The statement of the contested judgment in its statement of the incident of the case does not indicate that the crime of acquiring the drug that the appellant was convicted of was in a state of flagrante delicto, which is exclusively set forth in Article 30 of the Criminal Procedure Law, as if the judicial officer received the news of the crime from others, it is not sufficient for the occurrence of the case of flagrante delicto as long as he did not witness any of its effects that foretells the occurrence of the crime before the arrest was made. This is in part what the judgment stated that the officer saw the appellant selling drugs, in addition to the fact that this phrase came in general, the judgment did not mention how the officer viewed the drug from inside the scrolls before the arrest of the appellant and with any of his senses, or indicate the external manifestations that were self-evident about the occurrence of the crime and the state of flagrancies that allowed him to arrest and search the appellant. [Appeal No. 8517 of 79 S issued on October 5, 2011 (unpublished)

It ruled that: [The evidence of the incident mentioned in the judgment does not indicate that the accused was seen in a state of flagrante delicto described exclusively in Article 30 of the Criminal Procedure Law, and it is not true to say that she was in a state of flagrante delicto at the time of her arrest, because the mere presence in the car of the former accused sentenced for the crime of acquiring the substance of narcotic cannabis does not in itself indicate that the officer is aware in a certain way of committing the crime of acquiring the substance of narcotic cannabis that she was convicted of. Therefore, what happened to the appellant is an explicit arrest that is not justified and has no basis in the law, because of the lack of external manifestations that predict the occurrence of the crime and the state of flagrante delicto that allows the judicial officer to arrest and search] Appeal No. 7290 of 79 of July 7, 2011 (unpublished)

It ruled that: [The incident does not indicate that the crime was seen in one of the cases of flagrante delicto described in the law exclusively in Article 30 of the Code of Criminal Procedure, which is not provided by the mere observation of the judicial seizure man of the scroll in the hands of the appellant after receiving it from the other convict, which did not indicate its content before the arrest of the appellant and the dissolution of that scroll, and if the contested judgment violated this consideration and eliminated the validity of the arrest and search procedure based on the availability of the case of flagrante delicto, it may have erred in the application of the law and its interpretation] Appeal No. 11 of 81 BC issued at the session of 7 June 2011 (unpublished)

It ruled: [To the extent that the judgment proves in its codes a statement of the incident of the case and to the effect of what the officer who began its procedures testified that he did what he did in compliance with his duty to take the necessary precautions to detect the crime of acquiring a drug and seizing the accused in it, which falls within the core of his competence as a judicial officer, as when he learned from his confidential source that the appellant is

The occurrence of flagrante delicto does not negate the fact that the arresting officer moved to the scene of the accident sometime after its occurrence, as long as he took the initiative to move immediately after his knowledge and as long as he witnessed the effects of the crime[244].

Subsection 2: The availability of flagrante delicto

First: Examples of the availability of flagrante delicto

The Court of Cassation ruled that what was stated in the contested judgment, whether in response to the plea of nullity of the arrest or a statement of the incident of the case and its evidence, makes it clear that the competent judicial officer - the first witness - witnessed the crime in person at the

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acquiring narcotic substances on the street of a hospital..... In front of .... He went with the second witness and met with the confidential source who indicated to them the whereabouts of the accused. He realized with one of his senses the sense of sight a crime of flagrante delicto, which is to watch the accused carrying narcotic substances and circulating them with others. He was arrested and searched with forty-one paper rolls containing each drug of heroin. What he did is a legitimate procedure that is valid for the appellant to take his result when the court is assured of its occurrence. If the judgment was inferred that the case of flagrante delicto is the crime that allows the arrest of those who contributed to its commission and allows its search without permission from the prosecution, then what the judgment stated is evidence of the availability of the case of flagrante delicto and in response to the appellant's plea that this case is not available and that the arrest and search is null and void is sufficient and appropriate in response to the payment, and in accordance with the correct law] Appeal No. 46835 of 73 Q issued at the session of January 15, 2008 (unpublished).

It ruled that: [It is sufficient for the state of flagrante delicto to achieve the drug that the person who witnessed these manifestations has shown the nature of the material he saw, but it is sufficient for these external manifestations to be achieved by any sense of the senses, equal to that sense of smell or sense of sight, and what was stated in the judgment was an indication of the availability of the state of flagrante delicto and in response to what the appellants argued was not available and the invalidity of arrest and search is sufficient and reasonable and in accordance with the correct law. This is because the officer's observation of the appellants in the event of their use of hookah, which emits the smell of cannabis and smells that smell, which constitutes a crime in flagrante delicto that allows arrest] Appeal No. 89956 of 75 S issued at the session of October 1, 2006 and published in the Technical Office's letter No. 57 Page No. 798 Rule No. 84, Appeal No. 11111 of 64 S issued at the session of May 7, 1996 and published in the first part of the Technical Office's letter No. 47 Page No. 583 Rule No. 81

It also ruled that: [If the officer had realized the occurrence of the crime from seeing the challenged person holding the walnut and then cutting off a piece of material he was holding and pressing it with the fingers of his hand and then putting it on the smoke of the walnut, the contested decision, if the evidence derived from the search was wasted on the grounds of its nullity because the case of flagrante delicto did not arise despite its existence, is legally justified, it has erred in the application of the law, which is flawed and must be overturned. [Appeal No. 1841 of 39 s issued at the hearing of March 15, 1970 and published in the first part of the book of the Technical Office No. 21 page No. 355 rule No. 88.

It also ruled that: [The case of flagrante delicto is available when the two members of the administrative control hear the conversation that took place between the accused and the reporting employee in the latter's residence, and they see the incident of handing over the bribe amount through the hole in the door of the reception room, as long as that case came through a project, which is to invite the two members of the control to enter his house and facilitate them to see the incident in order to control its disgust, in a way that does not contradict personal freedom or violate the sanctity of the residence. [Appeal No. 1580 of 39 S issued at the session of January 18, 1970 and published in the first part of the book of the Technical Office No. 21 page No. 94 rule No. 24..

([244]) See Appeal No. 645 of 85 S issued at the hearing of 14 December 2015 and published in Technical Office Letter No. 66 page 868 Rule No. 129, Appeal No. 3087 of 79 S issued at the hearing of 10 March 2010 (unpublished), Appeal No. 159 of 60 S issued at the hearing of 13 February 1991 and published in Part I of Technical Office Letter No. 42 page 312 Rule No. 42, Appeal No. 87 of 43 S issued at the hearing of 25 March 1973 and published in Part I of Technical Office Letter No. 24 page 373 Rule No. 80, Appeal No. 1296 of 30 S issued at the hearing of 14 November 1960 and published in Part III of Technical Office Letter No. 11 page 782 Rule No. 150, Appeal No. 170 of 25 S issued at the hearing of 17 May 1955 and published in Part III of Technical Office Letter No. 6 page 1003 Rule No. 300..

time of its commission and that the second witness arrested the appellants at the time of its commission and their attempt to escape, which indicates that the crime was witnessed in one of the cases of flagrante delicto described exclusively in Article 30 of the Criminal Procedure Law [245].

The Court of Cassation ruled that watching the arresting officer with an apparent weapon in his hand is considered in itself a flagrante delicto for the crime of carrying a weapon, which allows the judicial arresting officer to arrest and search him [246].

It ruled that since it was established from the records of the contested judgment - which the appellant did not dispute - that the investigating prosecutor and the member of the administrative control did not arrest the appellant and search him only after watching him as soon as he provided the bribe amount to the first witness, which is considered a crime in flagrante delicto that allows his arrest and search without permission from the prosecution[247].

([245]) Appeal No. 2100 of 82 S issued on January 2, 2013 (unpublished).

([246]) Appeal No. 13163 of 88 S issued at the session of January 2, 2021 (unpublished), Appeal No. 4033 of 81 S issued at the session of January 1, 2012 and published in the letter of the Technical Office No. 63 page No. 33 rule No. 3.

The Court of Cassation ruled that: [It is established from the records of the contested judgment - which was not disputed by the appellant - that the seizure of the automatic weapon and the ammunition contained in it was after the officer watched him sitting in front of his house holding it in his hand, and as soon as he was surprised, he fled with neighboring crops, leaving him and his arrest, the seized ammunition was found inside him, which is considered a crime in a state of flagrante delicto that allows the officer to arrest and search without permission from the Public Prosecution in this regard, it is useless to what the appellant raises - by imposing his health - in connection with the invalidity of the permission of the Public Prosecution and the subsequent procedures for his building on non-serious investigations] Appeal No. 13269 of 88Q issued at the session of January 2, 2021 (unpublished)

It ruled that: [If the judgment was arranged on the permissible considerations that he mentioned from the leave - the arrest of the appellant by the judicial officer is correct in the law, based on the availability of the case of flagrante delicto for the felony of acquiring weapons, when he moved immediately after being informed of the felony of the project in the murder, where the appellant saw on the roof of his house a bribe that may not be authorized, the case of flagrante delicto on the accusation of the appellant was available, allowing the judicial officer to issue an arrest warrant and then the obituary to the judgment in this regard is not valid] Appeal No. 21039 of 61 s issued at the session of 18 October 1993 and published in the first part of the Technical Office's book No. 44 page No. 828 rule No. 128

It also ruled that: [Since the witness of the appellant officer with an apparent weapon in his hand is considered by himself to be wearing a weapon that allows the judicial officer to arrest and search him] Appeal No. 20129 of 60 S issued at the hearing of 14 April 1992 and published in the first part of the book of the Technical Office No. 43 page No. 406 rule No. 60..

([247]) Appeal No. 49438 of 72 S issued at the session of 19 November 2006 and published in the letter of the Technical Office No. 57 page No. 875 rule No. 97.

It also ruled that: [When it is established from the records of the contested judgment that the two officers did not arrest the appellant and search him only after they saw him seeing an eye if the amount of the bribe was taken from the stakeholder, the crime is in a state of flagrante delicto, which entitles the two officers to arrest and search him without permission from the prosecution, and therefore there is no point in what the appellant raises regarding the invalidity of the prosecution's permission to search for his issuance of a future crime] Appeal No. 199 of 40 BC issued at the session of 16 March 1970 and published in the first part of the Technical Office's letter No. 21 page 398 rule No. 98..

The Court of Cassation ruled that the accused abandoned the bag containing the narcotic substance on his own - that is, voluntarily and voluntarily - after watching the officer arrange the case of flagrante delicto with the crime that allows arrest and search [248].

The abandonment on which the state of flagrante delicto is based shall be done by free will, voluntarily and by choice. If the result of an illegal action, the evidence derived from it shall be null and void[249].

It ruled that the officer of the incident saw the defendants sitting next to the road eating alcohol, and when they saw him, they threw them on the ground at the time of the curfew, in violation of the decision of the Prime Minister, so he went to them and searched them and found the seizures. This provides a case of flagrante delicto as it is known by the law, in addition to their presence during the curfew decision, the arrest of the defendants and the case is also correct [250].

([248]) Appeal No. 12506 of 80 S issued at the session of 18 October 2011 (unpublished), Appeal No. 42801 of 72 S issued at the session of 5 November 2009 (unpublished), Appeal No. 42391 of 72 S issued at the session of 4 November 2009 (unpublished), Appeal No. 15447 of 72 S issued at the session of 15 October 2009 (unpublished), Appeal No. 12734 of 69 S issued at the session of 5 March 2009 (unpublished), Appeal No. 61168 of 74 S issued at the hearing of October 5, 2008 (unpublished), Appeal No. 6461 of 70 S issued at the hearing of March 12, 2008 (unpublished), Appeal No. 11713 of 69 S issued at the hearing of October 18, 2007 (unpublished), Appeal No. 13528 of 65 S issued at the hearing of June 1, 2004 and published in the book of the Technical Office No. 55, page No. 543, rule No. 76, Appeal No. 26109 of 69 S issued at the hearing of February 20, 2002 and published in the book of the Technical Office No. 53, page No. 307, rule No. 55, appeal No. 30164 of 59 S issued at the session of 20 May 1997 and published in the first part of the Technical Office letter No. 48 page No. 610 rule No. 91, Appeal No. 1792 of 61 S issued at the session of 15 November 1992 and published in the first part of the Technical Office letter No. 43 page No. 1031 rule No. 158.

The Court of Cassation ruled that: [As the origin is that the men of public authority in their areas of competence have access to public shops open to the public to monitor the implementation of laws and regulations, which is an administrative procedure restricted to the purpose of the above statement and does not go beyond it to exposure to the freedom of persons or the exploration of closed things that are not apparent unless the officer is aware of his sense and before exposure to them, but what is in them, which makes possession or acquisition of them a crime that allows inspection, so this inspection in this case is based on the case of flagrante delicto and not on the right to visit public shops and supervise the implementation of laws and regulations.

Whereas, the appellant abandoned the narcotic substance and threw it on the ground without taking any action from the detective officer whose entry into the cafe was legitimate, it is considered that it took place voluntarily and by choice, which constitutes a case of a crime in flagrante delicto that allows search and arrest. Appeal No. 2806 of 57 S issued at the session of November 1, 1987 and published in the second part of the Technical Office's book No. 38 page No. 917 rule No. 169.

It ruled that: [Since the judgment proved that the appellant was the one who threw the bag and the scroll when he saw the men of the force and before taking any action with him, he abandoned them voluntarily and voluntarily. If the officer picked them up after that and opened them and found in them an anesthetic, the crime of obtaining it is in a state of dress that justifies the arrest and search of the appellant without permission from the Public Prosecution. Hence, there is no point in what he raises about the invalidity of the permission of the prosecution to search him for lack of seriousness of investigations and not causing it] Appeal No. 87 of 46 S issued at the session of April 19, 1976 and published in the first part of the Technical Office's letter No. 27 page No. 453 rule No. 98..

([249]) Appeal No. 67683 of 76 S issued on October 26, 2008 (unpublished).

([250]) Appeal No. 3322 of 85 S issued at the session of January 2, 2016 and published in the letter of the Technical Office No. 67, page No. 23, rule No. 2, Appeal No. 7446 of 84 S issued at the session of December 6, 2014 and published in the letter of the Technical Office No. 65, page No. 938, rule No. 124.

It ruled that: [The contested judgment, after stating a copy of the incident, the defense of the second appellant, who pleaded nullity of the arrest and search, responded by saying: " Whereas, it is about the initial plea of the lawyer of the second accused that his arrest and search are null and void due to the absence of a state of flagrante delicto

However, the search of the accused because he is present with the person authorized to search him without the permission of the Public Prosecution issued to search him or search him who may be present with the person authorized to search him upon implementation and without the occurrence of a case of flagrante delicto as it is legally known or the availability of a situation that allows his arrest and thus search, shall be null and void as well as what resulted from it in application of the rule of all that results from the falsehood is null and the result of that inspection and a certificate from him shall be null and void because it is arranged on him and it is not valid to rely on the evidence derived from it in the conviction [251].

However, if the person present with the person authorized to search him tries to infringe on the judicial officer with an apparent weapon, this makes the last crime flagrante delicto, which allows the officer who witnessed the incident to arrest that accused without the permission of the Public Prosecution and to be searched. If the search results in the seizure of a crime such as the seizure of narcotic substances, the seizure has been made for a flagrante delicto crime, and the second appellant raises the invalidity of the arrest and the fabrication of a case of apparent legal defense of invalidity, not on the court if it turns away from responding to him, in addition to the fact that the

and the lack of permission from the Public Prosecution, so he responded with what is legally prescribed that flagrante delicto is a state inherent in the crime itself, and it is sufficient for its availability that its witness has attended its commission himself and realized its occurrence with any of his senses, and that the establishment of the state of flagrante delicto permits the arrest of the perpetrator and allows his search without permission from the Public Prosecution. Whereas, it was established from the statements of the two officers who witnessed the incident that they sat in the shop of..... In a place close to the secret source council that enables them to watch what is going on, where the first accused, who is authorized to seize and search him, accepted the secret source and made sure that there is Egyptian cash with the price of the dollars that he had agreed to buy from him, and a short conversation took place between them, after which the first accused left the shop and returned after about five minutes with the second accused, and a conversation took place between them and the secret source, after which the second accused brought out a scroll of The white paper from inside the sweater that he wears and has broken it. The two officers found out that it contains a quantity of counterfeit US dollars agreed to be sold to the confidential source. The first witness seized the aforementioned defendant as well as the first defendant and the counterfeit dollars. The second defendant, by what he did, created the two officers regarding the crimes of acquiring a counterfeit paper currency with the intention of promoting it and starting to promote it by presenting it to the confidential source to buy it in flagrante delicto, allowing him to be arrested and allowed to be searched without permission from the Public Prosecution, which takes away from this arrest and that search the nullity that was received by the defense of the second defendant. The arrest and search order for him has come in the right seriousness, agreement and judgment The law" , which is a sufficient and reasonable response in response to the plea and is in accordance with the correctness of the law] Appeal No. 5858 of 65 S issued at the session of May 4, 1997 and published in the first part of the Technical Office's letter No. 48 page No. 493 rule No. 72..

([251]) Appeal No. 6442 of 82 S issued at the 4th session of April 2013 and published in the Technical Office letter No. 64, page No. 458, rule No. 60, Appeal No. 3225 of 81 S issued at the 20th session of November 2012 and published in the Technical Office letter No. 63, page No. 742, rule No. 132, Appeal No. 4532 of 79 S issued at the 17th session of March 2011 (unpublished), Appeal No. 20054 of 74 S issued at the 7th session of May 2006 and published in the Office letter Technical No. 57 Page No. 603 Rule No. 64 , Appeal No. 26585 of 68 s issued at the session of March 5, 2002 and published in the Technical Office's letter No. 53 Page No. 366 Rule No. 65 , Appeal No. 23765 of 67 s issued at the session of January 17, 2000 (unpublished), Appeal No. 2605 of 62 s issued at the session of September 15, 1993 and published in the first part of the Technical Office's letter No. 44 Page No. 703 Rule No. 110 , Appeal No. 15033 of 59 s issued at the session of January 3, 1990 Published in the first part of Technical Office Letter No. 41 Page No. 41 Rule No. 4 , Appeal No. 4117 of 56 S issued on December 11, 1986 and published in the first part of Technical Office Letter No. 37 Page No. 1039 Rule No. 198.

officer sees the accused with a weapon, makes him in a state of dress by seizing the weapon, even if it is found after that he is not punished for possession[252].

It ruled that if the court is satisfied with what the officer testified, that he smelled the burning of the drug, and saw the appellants exchanging a burning tobacco roll, which smells the same, enough for the availability of external manifestations that predict the crime of acquiring cannabis, then the conclusion of the judgment that the state of flagrante delicto that justifies arrest and search is correct in law [253].

It ruled that watching the arresting officer - the accused - drop an apparent white weapon is itself considered a flagrante delicto for the crime of acquiring the weapon, which allows the judicial arresting officer to arrest and search him [254].

If the officer has witnessed the appellant crossing the railway tracks from a place not designated for pedestrian crossing, the case of flagrante delicto has been achieved by crossing the railway lines in places other than those designated for this purpose and criminalized by Articles 14 and 20 of Law 277 of 1959 regarding the railway travel system as amended by Law No. 13 of 1999, which is punishable by imprisonment for a period not exceeding six months and a fine not exceeding twenty pounds or one of these two penalties, which allows the judicial officer to arrest the appellant. Whereas, the Law of Procedure has generally stipulated in Article 46 thereof that in cases where it is permissible to arrest the accused, the judicial officer may search him, considering that whenever the arrest is valid, the search conducted by the person authorized to conduct it on the arrested person is valid, regardless of the reason for or purpose of the arrest, in the general

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([252]) Appeal No. 68624 of 75 BC issued at the session of May 20, 2009 (unpublished).

([253]) Appeal No. 5216 of 85 S issued on October 12, 2015 and published in the Technical Office's letter No. 66, page No. 673, rule No. 99.

It also ruled that: [It is established from the records of the contested judgment that the officer did not arrest the appellants and search them only when he verified their connection to the crime, as he saw them inside the car as soon as the smell of the drug was emitted from it and found the remnants of a cigarette that emits the same smell, and in a way that indicates that the purpose of the babysitting is to participate in the abuse, which is a reasonable extraction approved by the trial court and considered sufficient to justify the arrest and search, this is correct. There is no rebuke to the verdict as it relies on the evidence derived from those proceedings for conviction. The obituary against the judgment in this regard is not valid, and all that the appellants, especially the second appellant, raise about the lack of flagrante delicto and the lack of responsibility of the second appellant for the remnants of (cigarette) seized in the car and what the latter said about the lack of justification for preventive inspection and non-disclosure of the drug seized with it, all this resolves into an objective controversy that may not be raised before the Court of Cassation] Appeal No. 9407 of 69 S issued at the 8th session of October 2007 and published in the Technical Office's letter No. 58 page No. 585 Rule No. 113.

([254]) Appeal No. 6759 of 73 S issued at the session of January 20, 2010 and published in the book of the Technical Office No. 61, page No. 52, rule No. 8.

It ruled that: [.. The verdict has proven that the arresting officer saw the appellant carrying a white weapon "deer horn knife" in an apparent case, which is itself considered a flagrant crime of carrying a weapon that allows the judicial arresting officer to arrest and search him] Appeal No. 18704 of 68 S issued at the session of April 5, 2007 and published in the letter of the Technical Office No. 58, page No. 352, rule No. 67..

form in which the text is contained, the procedures for arresting and searching the appellant, which were initiated by the judicial officer - afterwards - shall be characterized by legitimacy[255].

The Court of Cassation also ruled that when the judicial officer informed him of the secret source that the accused was offering a quantity of the narcotic plant for sale on the public road, he verified his investigations of the validity of this information and assigned that source to pretend to buy the drug and saw the accused presenting the source with a paper scroll that showed inside the banjo plant and then he seized and searched it with him on four scrolls containing the same narcotic. What the officer came up with in this way is not considered a creation of the crime nor an incitement to its corruption as long as the will of the perpetrator remained free and non-existent, and it does not change that the officer received the news of the crime from the secret source as long as he witnessed an incident that he pretended to buy the drug and was under his eyes, and if that, the

([255]) Appeal No. 29598 of 77 S issued at the 7th session of April 2014 and published in the book of the Technical Office No. 65 page No. 247 rule No. 25.

It ruled that: [... Article 12, paragraph 2, of Law No. 66 of 1973 promulgating the Traffic Law, stipulates that the vehicle license must always be present in it and allows police and traffic officers to request its submission at any time. Article 41 of the same law also requires the licensee to drive a vehicle carrying the license while driving and presenting it to the police and traffic officers whenever they request it. In light of the foregoing, the officer may choose the appropriate circumstance to complete it in a fruitful manner and at a time he deems appropriate. This is because the legislator obligated every vehicle owner and every driver to have the vehicle license in it always and that the driver holds his driving license while driving and to present them to the police or traffic whenever they request it. The text in this regard was clear and unambiguous, in general without allocation, free without restriction, and the officer's order to the appellant to stop his car while driving it on the public road is no more than a physical exposure that does not violate his personal freedom and does not in any way constitute an attack on this freedom, as the officer did not mean it It is obvious in the Court of Cassation that the legitimate procedure does not generate within its limits a nullity, and it was decided that the assessment of the availability of flagrante delicto or non-availability is a purely objective matter that is initially entrusted to the judicial officer, provided that his assessment is subject to the control of the investigating authority under the supervision of the trial court according to the facts presented to it without penalty, as long as the result it reached is consistent with the premises and facts it established in its judgment. Whereas the contested judgment has concluded, in sound logic and reasonable inference and in accordance with the rule of law, the legality of what the judicial officer did towards the car in which the appellant was riding, as previously stated, and that the state of flagrante delicto arose from the identification of the external manifestations of the crime, which foretells its occurrence according to what the judgment concluded for the image of the incident indicating the indisputable fact that the appellant has its fixed origin in the papers because the officer smells the drug emanating from the inside of the car as soon as its glass is opened by its commander and he watches the drug above the dashboard of the car, including the state of flagrante delicto that allows the arresting officer Judicial arrest and search of the appellant, if the court ends up refusing to pay the nullity of the arrest and search, it will have correctly applied the law] Appeal No. 5303 of 74 S issued at the session of October 17, 2012 and published in the letter of the Technical Office No. 63 page No. 516 rule No. 88.

It also ruled: [Since the crime of throwing dirt inside the railway yards of the respondent falls under the text of Articles 10/ H, 20 of Decree-Law No. 277 of 1959, which linked the penalty of imprisonment for a period not exceeding six months and a fine not exceeding twenty pounds or one of these two penalties, it was justified for the judicial officer to arrest the accused Whereas the Code of Procedure has generally stipulated in Article 46 that in cases where it is permissible to arrest the accused, the judicial officer may search him, considering that whenever the arrest is valid, the search that the person authorized to conduct on the arrested person is correct, regardless of the reason for and purpose of the arrest, for the general form in which the text is contained. On the other hand, the court records testify that the search in this case was necessary, as it is one of the means of prevention and precaution that must be provided to protect against the evil of the arrested person if he himself spoke to him to regain his freedom by assaulting what he may have of a weapon on the arrested person, and if the judgment is with what he has proven that The defendant committed a crime of throwing dirt inside the yards of the subway station, which allows his arrest in the law [Appeal No. 23182 of 73 S issued at the session of March 11, 2010 and published in the book of the Technical Office No. 61 page No. 256 rule No. 31, Appeal No. 46660 of 72 S issued at the session of December 3, 2009 and published in the book of the Technical Office No. 60 page No. 525 rule No. 68..

accused voluntarily found himself in a case of flagrante, which makes the officer's seizure and search a correct and productive effect[256].

It ruled that the contested judgment had deduced - in sound logic - what the arresting man doubted and thought about the first appellant who denied carrying the licenses of the seized car and that he did not know the name of its owner in full and showed signs of severe confusion, which the officer doubted that the car was stolen, these signs allow the appellant to stop and prevent him from walking to investigate and reveal the truth of this situation, and that the state of flagrante delicto arose from the identification of the external manifestations of the crime, which foretells its occurrence for the officer to see the drug in the suitcase of the car after he asked the appellant to open it, so he got out of the car and opened it with his consent, which allows the officer to arrest him after being caught committing a felony of transporting narcotic substances in flagrante, and that the judgment, if he refused to pay the nullity of the arrest and search, was accompanied with the right[257].

It also ruled that the public place by chance, such as cemeteries, is originally a private place limited to certain individuals or sects, but it acquires the status of a public place at a time when there are a number of members of the public by chance or agreement. Otherwise, it takes the rule of private places, which is what is available in flagrante delicto when it is possible to see who is inside it because of the lack of precaution of the perpetrator. If the perpetrator neglects to take sufficient precaution, such as if he has left his window open - as in the case of the incident - as the incident officer saw from that window the appellants fragmenting the drug[258].

It ruled that Article 34 of the Criminal Procedure Law allowed the judicial officer to arrest the accused in cases of flagrante delicto in general and misdemeanors punishable by imprisonment for a period of more than three months. If the crime of walking in reverse direction is a misdemeanor, the law has linked it to the penalty of imprisonment and a fine of no less than one thousand pounds and no more than three thousand pounds or one of these two penalties, according to the text of Article 76 bis/ 1 of Law No. 66 of 1973, as amended by Law No. 121 of 2008, and then the judicial officer may arrest him [259].

Second: Examples of the absence of flagrante delicto

It is decided that the case of flagrante delicto requires the judicial officer to verify that the crime has been witnessed by him or that he is aware of it with a sense of his senses, and that while the assessment of the circumstances that clothed the crime and surrounded it at the time of its

([256]) Appeal No. 33743 of 73 BC issued at the 12th session of April 2010 and published in the book of the Technical Office No. 61 page No. 321 rule No. 42.

([257]) Appeal No. 9893 of 78 S issued at the session of November 5, 2009 and published in the book of the Technical Office No. 60 page No. 404 rule No. 56..

([258]) Appeal No. 20481 of 72 S issued at the session of November 5, 2007 and published in the letter of the Technical Office No. 58 page No. 672 rule No. 129.

([259]) Appeal No. 13620 of 88 S issued on January 2, 2021 (unpublished).

commission, and the extent of its sufficiency for the state of flagrante delicto is entrusted to the trial court, it is conditional that the reasons and considerations on which the court bases its assessment are valid to lead to the result that it reached. What was stated by the contested judgment in the course of his statement of the case, and what he obtained from the statements of the officer in the advanced context, does not show that it was found that the drug was ordered before he caught the appellants, but that it is proven by his statements in the investigations of the Public Prosecution - as shown by the included vocabulary - that he seized the second and third appellants, and then searited the mobile that they tried to hide it under the bed, so it affected the anestive plant, and the search was just that the second and third appellants tried to hide the wanders under a bed in the authorized house. Whereas the foregoing, the arrest that occurred on the second and third appellants without the issuance of a judicial order may have occurred in a state other than flagrante delicto and without sufficient evidence to charge them with the crime, and if the contested judgment violated this consideration and ended up with the validity of this procedure and refused to plead the invalidity of the seizure, it may have erred in the application of the law by withholding it from assessing the other evidence that may exist in the lawsuit, which requires its revocation and return [260].

The Court of Cassation also ruled that the statement made by the judgment in the course of its statement of the incident of the case and in its response to the plea of nullity of the arrest and search that what the judicial officer raised from the arrest of the accused merely because the first witness of evidence informed him of the offer of the accused - the appellant - a counterfeit financial paper and his rejection of it without indicating the nature of this paper and the failure of the judicial officer to view it before the arrest and search of the appellant is a false arrest and search because they are not in a state of flagrante delicto and without permission from the Public Prosecution [261].

It also ruled that the contested judgment had proven in the course of collecting the incident of the lawsuit and the result of the statements of the officer of the incident that it proved the truth of the seized weapon and that it was a sound pistol before conducting its inspection of the appellant, which resulted in the seizure of three bullets from what was used on the firearms, and there is nothing in the papers indicating that they were in an apparent position of the appellant's clothes that the officer sees so that he can be searched based on the state of flagrante delicto, which results in the nullity of the inspection, even if it is preventive, and if the contested judgment violated this consideration, he may have erred in the application of the law and its interpretation in a way that necessitates its reversal[262].

([260]) Appeal No. 20054 of 74 S issued on May 7, 2006 and published in the Technical Office's letter No. 57, page No. 603, rule No. 64.

([261]) Appeal No. 18565 of 84 S issued at the session of April 11, 2016 and published in the letter of the Technical Office No. 67, page No. 433, rule No. 50.

([262]) Appeal No. 14778 of 84 S issued at the 4th session of December 2014 and published in the book of the Technical Office No. 65, page No. 910, rule No. 119.

The Court of Cassation ruled that it is clear from what the contested judgment obtained in its statement of the case that the appellant did not put himself in doubt and did not make him suspicious of the police officers and not just confused or walking with a suitcase and hesitating to ride in a car, which allows the officer of the incident to stop him, and therefore the arrest of the officer of the incident is no more than an arbitrary measure that has no basis in the circumstances of the case and is based on no basis in law and is an attack on personal freedom and involves abuse of power. Therefore, this procedure and what is based on it has been null and void, and the fact of the lawsuit as obtained by the contested judgment in its codes - the aforementioned - does not indicate that the crime of acquiring the narcotic plant that the appellant was convicted of was in a state of flagrante delicto stipulated exclusively in Article 30 of the Criminal Procedure Law, as the officer of the incident did not see the crime or one of its effects before the appellant was arrested and arrested, and therefore what happened to him is a false arrest that is not justified by what was stated in the contested judgment in the context of His response to the plea is that the appellant accepted the inspection of the bag, and that this was done with his consent, as that consent - assuming its occurrence - was later for a false arrest and a caller who occurred in cases other than flagrante delicto and without permission from the Public Prosecution - as mentioned above - in order to obtain evidence that would not have been possible for the person who carried it out without that arrest, and therefore that consent was not explicit, free and free of what is tainted by the will of its owner and is not reliable in the procedures based on it[263].

The Court of Cassation also ruled that since the contested judgment was between the fact of the lawsuit to extract from the statements of the officer... that on the day of... While conducting a traffic campaign, the first defendant witnessed... He rides a motorcycle against the direction and behind him the second accused... They are in a state of imbalance, so he seized them and wrote a memorandum to that effect and sent them to the police station, which sent them to a hospital... to take a urine sample from them, and then they were presented to the Public Prosecution. It was proven from the report of the Toxicology and Narcotics Department at the Chemical Laboratory of the Directorate of Health Affairs B... that the two urine samples of the defendants contained opium... The image of the incident, as obtained by the contested judgment in its aforementioned blogs, does not indicate that the crime of acquiring the drug in which the appellant was convicted was in a state of flagrante delicto, which is exclusively set out in Article 30 of the Criminal Procedure Law, as what the contested judgment attributed to the advanced context and concluded from the appearance of signs of imbalance on the appellant upon watching him has a state of flagrante delicto with the crime of drug abuse, which allows the judicial officer to arrest him is not correct in the law because of the multiple possibilities causing illness or otherwise, but this court has ruled that it is not in the mere manifestations of confusion and confusion of the person, no matter how much it provides sufficient evidence to accuse him of the flagrant crime and then allows his arrest and search. Also, Article 66 of Law 66 of 1973 promulgating the Traffic Law,

([263]) Appeal No. 19749 of 70 S issued on November 17, 2007 and published in the letter of the Technical Office No. 58 page No. 736 rule No. 138..

which was taken by the judgment based on its judiciary, specified the procedures to be followed in the event of suspicion of driving a vehicle under the influence of alcohol or drugs for the driver of the vehicle only and not for other passengers. Whereas, it was evident from the papers that the appellant was a passenger behind the driver of the motorcycle, then the text of Article 66 of the Traffic Law No. 66 of 1973, as amended, does not apply to him, and his arrest has occurred in a state other than flagrante delicto, and what happened to him is a false arrest that collapses with any evidence derived from it[264].

It ruled that since what was stated in the contested judgment, whether in response to the plea of nullity of the arrest or in its statement of the incident of the lawsuit, there is no evidence that the crime was witnessed in a case of flagrante delicto described exclusively in Article 30 of the Criminal Procedure Law, and this is not just a part of what resulted from the police investigations, and the appellant's placement of an amount of money in front of the "kiosk custodian" does not indicate in itself, that he offered a bribe as long as the officer did not listen to the conversation that took place between them, and it turns out that the reason for providing the money before holding the appellant is illegal, and there is no justification for his arrest because of the lack of external manifestations that predict the occurrence of the crime and the state of flagrante delicacy that allows the judicial officer to arrest and search [265].

The case of flagrante delicto also requires that the judicial officer verify that the crime has been witnessed by himself or is aware of one of his senses, and it is not indispensable for him to receive its news through narration or transfer of witnesses, as long as that case has ended by erasing the traces of the crime and the evidence indicating it [266].

([264]) Appeal No. 48070 of 74 BC issued at the session of March 4, 2007 and published in the letter of the Technical Office No. 58 page No. 220 rule No. 44.

([265]) Appeal No. 8915 of 65 S issued at the session of 19 November 1997 and published in the first part of the book of the Technical Office No. 48 page No. 1293 rule No. 195..

([266]) Appeal No. 951 of 33 S issued on December 30, 1963 and published in the third part of the Technical Office's letter No. 14 page No. 1011 rule No. 184

The Court of Cassation also ruled that: [It is established that personal freedom is a natural right and is inviolable. Except in cases of flagrante delicto, no one may be arrested, searched, detained, restricted in any way, or prevented from moving except by an order necessitated by the necessity of investigation. Maintaining the security of society. This order is issued by the competent judge or the Public Prosecution in accordance with the provisions of the law. Flagellation is the condition of the crime itself and not the person of the perpetrator. Because of its availability, the street required the judicial officer to verify that the crime was witnessed by himself or was aware of it in one of his senses. It is not indispensable for him to receive its news through the narrative or the transfer of witnesses, as long as that condition ended with the erasure of the traces of the crime and the evidence that indicates it and the availability or non-availability of the case of flagrante delicto is one of the objective issues that the trial court decides to assess. Since the prosecution witness has confirmed the achievement of the accused of the narcotic substance after his secret source attempted to purchase in the above manner and seized it after the availability of the case of flagrante delicto, which he is aware of with his sense of sight. The prosecution witness shall have the right to be arrested and searched for that search, which resulted in the seizure of the rest of the anesthetic substance. Since the seizure occurred correctly, the court shall take all evidence resulting from the subsequent search, and what the defense raises in this regard shall be improper and shall be rejected. "

Whereas, Articles 34 and 35 of the Code of Criminal Procedure, amended by Law No. 37 of 1972 on the Guarantee of Citizens' Freedoms, authorized the judicial officer in cases of flagrante delicto punishable by imprisonment for a period of more than three months to arrest the accused present, who has sufficient evidence of his accusation. If he

It also ruled that the fall of the scroll is an accident by the appellant if he runs away when he sees the officer of the incident is not considered a renunciation of his possession, but nevertheless remains in his legal possession, and if the officer did not identify the content of the scroll before it was broken, the incident in this way is not considered a case of flagrante delicto set forth exclusively in Article 30 of the Code of Criminal Procedure and is not considered in the form of the lawsuit one of the external manifestations that itself foretells the occurrence of the crime and thus allows the judicial officer to conduct the search [267].

It ruled that the mere presence of the individual with the person authorized to search him and take up a bag of him can be considered sufficient evidence of the existence of an accusation that justifies his arrest and search, and that although the assessment of the circumstances that accompany and surround the crime at the time of its commission and the assessment of its adequacy for the occurrence of flagrante delicto is entrusted to the discretion of the trial court without comment, but this is conditional on the reasons and considerations on which the court based this assessment valid to lead to the result it reached. For what it was, The result of the incident mentioned in the judgment on the advanced context was that the second appellant was seen in one of the cases of flagrante delicto described exclusively in Article 30 of the Criminal Procedure Law and that the officer of the incident had realized that case in a certain way that could not bear the complaint and

was not present, the officer may issue an order to arrest and bring him, as authorized by Article 46 of the same law, to search the accused in cases where it is legally permissible to arrest him. It was legally established that flagrante delicto is associated with the crime itself and not the person who committed it, which allows the officer who witnessed its occurrence to arrest anyone who has evidence of his contribution to it and to conduct his search without permission from the Public Prosecution. Although the assessment of the circumstances surrounding the crime at the time of its commission and its adequacy for the occurrence of the case of flagrante delicto is entrusted to the trial court, but this is conditional on the fact that the reasons and considerations on which the court based its assessment are valid because they lead to the result it reached. Whereas, justice does not harm the impunity of a criminal to the extent that it harms the freedoms of people and their unjust arrest, and the Constitution guarantees these freedoms as the most sacred of the natural rights of man by stipulating in Article 54 that "Personal freedom is a natural right and is inviolable. Except in the case of flagrante delicto, no one may be arrested, searched, imprisoned or restricted in any way except by a reasoned judicial order required by the investigation ...." Whereas, the image of the incident was - As obtained by the contested judgment in its codes, which have already been described - it does not indicate that the crime of acquiring the essence of the narcotic cannabis that the appellant owed was in a state of flagrante delicto, which is exclusively set forth in Article 30 of the Criminal Procedure Law, as the receipt by the judicial officer of the news of the crime from others is not sufficient for the occurrence of the case of flagrante delicto as long as he did not witness one of its effects that foretells its occurrence before the arrest was made, as it is clear from the codes of the contested judgment that the judicial officer did not see the sale and purchase process between the confidential source and the appellant and was not In his eyes, and what the judgment mentions in its codes does not in itself indicate the officer's awareness in a certain way of committing this crime, which does not provide a case of flagrante delicto. Since this is so, the arrest of the appellant has occurred in a state other than flagrante delicto, and therefore what he has pleaded against him is a false arrest. If the contested judgment violates this consideration and the validity of this procedure has been eliminated, it is wrongly defective in the application of the law to require its cassation. The invalidity of the arrest was legally required not to rely on the conviction of any evidence derived from it, and therefore the testimony of the person who carried out this false action is not considered. Since the lawsuit, as obtained by the contested judgment, has no other evidence, the appellant must be acquitted pursuant to the first paragraph of Article 39 of the Law on Cases and Procedures of Appeal before the Court of Cassation promulgated by Law No. 57 of 1959 and the confiscation of the seized narcotic and bladed weapons pursuant to Article 42 of Law No. 182 of 1960, as amended. Article 30 of Law 394 of 1954, as amended] Appeal No. 14043 of 88 S issued at the session of February 13, 2021 (unpublished).

([267]) Appeal No. 53096 of 74 S issued at the session of 19 November 2012 and published in the letter of the Technical Office No. 63 page No. 730 rule No. 130..

it is not true to say that the second appellant was in a state of flagrante delicto even if he was in the company of the first appellant who was authorized to search him and who was not yet in possession or in possession of the drug. The mere fact that the officer watched the second appellant provide money to the first appellant who was authorized to search him and received from him a bag after that. Then the officer opened it and watched a green plant from inside three rolls with a beige sticky and they were inside a closed bag that the second appellant received from the first and then the officer opened it to see it does not mean that he realized the narcotic substance in a visible condition before his arrest. The abandonment of the bag was not optional from him and then the officer was not in front of a flagrant crime, and his arrest of the second appellant is neither justified nor justified. in law[268].

Previously, a member of the force accompanying the judicial officer knew that the accused was being watched under a judicial ruling, escaped from surveillance, and had a report of this, and while heading towards him, he was searched for him in the event of his attempt to escape and carried out a preventive search in preparation for taking him to the office of the department. He found with his trousers and body a firearm and a cartridge. Then, he searched him and found with him the substance of narcotic heroin. Without the judgment invoking in its codes whether the arresting officer who carried out the search procedures has verified that the crime that the appellant was accused of committing was witnessed by himself or perceiving it with a sense of his senses or watching a trace of its effects that foretells its occurrence and that the crime is one of the misdemeanors in which the accused may be arrested and then searched accordingly or that there is a judicial order from the competent judicial authority to search the accused as required by the need to investigate and preserve the security of society. The judgment was based in its conviction - among other things - on the evidence derived from the seizure of the drug said to have been obtained by the appellant - that the statement is minor in response to the appellant's defense of the fact of filming the case. of what invalidates it [269].

It also ruled that the mere observation of the judicial officer of the accused (the appellant) holding a carton in his hand and showing signs of suspicion and suspicion is not sufficient to establish the state of flagrante delicto as long as he did not witness one of its effects that foretells its occurrence

([268]) Appeal No. 6442 of 82 S issued at the 4th session of April 2013 and published in the book of the Technical Office No. 64 page No. 458 rule No. 60.

([269]) Appeal No. 6595 of 79 S issued at the session of March 20, 2011 (unpublished).

It also ruled that: [The performance of the incident mentioned in the judgment does not indicate that the accused has been seen in a state of flagrante delicto described exclusively in Article 30 of the Criminal Procedure Law, which is not provided by the mere knowledge of the officer who committed the crimes of bullying and trafficking in narcotic substances or tried to escape when he saw him, and that the mere appearance of confusion and confusion, no matter how great, cannot be considered sufficient evidence of the existence of an accusation that justifies his arrest and search. The appellant's removal of what he hides in his clothes from an an anesthetic when ordered by the officer is a type of search that cannot be described as being with the consent of the appellant, but it was forced to do so by the fear factor of his forced search. If the contested judgment violates this consideration and the validity of this measure was eliminated, it is wrong in the application of the law and its interpretation, which requires its reversal.] Appeal No. 32442 of 73 Q issued at the session of March 7, 2010 (unpublaced), Appeal No. 32412 of 73 Qas issued at the hearing of March 7, 2010(unpublaced).

before the arrest was made, and what the judgment stated - according to the above context - was that the appellant was present inside a subway station.... As an establishment of vital importance, it has been implicitly accepted by the judicial officer - in order to be cautious and cautious - to search him administratively simply for holding a carton in his hand and showing signs of suspicion and suspicion, which is not true in the law, because it is established in the judiciary of this court that it is not from the mere manifestations of confusion and confusion, no matter how much it provides sufficient evidence to accuse him of the flagrante delicto crime and then allows his arrest and search. Whereas, the arrest of the appellant occurred in a state other than flagrante delicto, and therefore what happened to him is a false arrest, and if the contested judgment violated this consideration and the validity of this procedure was ruled, it is wrongly flawed in the application of the law in a manner that requires its reversal. Whereas, it was evident from the judgment records that the judicial officer did not find out what was contained in the carton that the appellant was holding in his hand until after his arrest and search, and the invalidity of the arrest and search was required not to rely in the conviction on any evidence derived from them, and therefore the testimony of the person who carried out this invalid procedure is not considered [270].

The mere attempt of the accused to escape after watching the police car does not meet the state of flagrante delicto that allows the judicial arrest officer to arrest the accused. The Court of Cassation ruled that: [Although the assessment of the circumstances that clothed and surrounded the crime at the time of its commission, and the extent of its sufficiency for the occurrence of flagrante delicto is entrusted to the trial court, but this is conditional on the reasons and considerations on which the court bases its assessment to be valid to lead to the result it reached, and what was stated by the contested judgment in the course of its statement of the incident of the case, What he obtained from the statements of the officer and his dismissal of the nullity of the arrest and search because of the absence of the state of flagrante delicto - in the advanced context - does not provide for the establishment of the state of flagrante delicto of a crime that allows the arrest of the appellant, as the mere attempt to escape after watching the police car, there is no justification for his arrest because of the absence of external manifestations that are self-evident about the occurrence of the crime and the state of flagrante delicto that allows the judicial officer to arrest and search, and the judicial officer received the news of the crime from others is not enough for the state of flagrante delicto as long as he did not witness a self-evident trace of its effects, and he violated the judgment This consideration has been challenged and the validity of this procedure has been concluded, as it has erred in the application of the law and its interpretation in a way that requires its cassation without the need to examine the rest of the aspects of the appeal] [271].

([270]) Appeal No. 11501 for the year 83 S issued in the session of February 2, 2014 and published in the letter of the Technical Office No. 65 page No. 42 rule No. 4..

([271]) Appeal No. 16578 of 88 S issued in the session of February 13, 2021.

Section 4: The powers vested in the judicial officer when the case of flagrante delicto is available

Subsection I: Visiting the Scene of the Incident and Documenting the Status

When a crime occurs, the judicial officer shall take the following measures:

1- Immediately move to the place of the incident, with immediate notification to the Public Prosecution. The Public Prosecution shall, as soon as it is notified of a flagrante delicto, immediately move to the place of the incident.

The legislator did not intend from this procedure only to regulate the work and preserve the evidence because of the lack of attenuation of its power of proof, and the mere delay in reporting did not result in any nullity, as that procedure was only mentioned as a matter of organization and guidance and the legislator did not arrange for its violation of nullity [272].

2- Examining the material effects of the crime, preserving it, and proving the status of places and persons and everything that is useful in revealing the truth [273].

Article 31 of the Code of Criminal Procedure stipulates that: "In the event of flagrante delicto, the judicial officer shall immediately move to the place of the incident, inspect and preserve the material effects of the crime, prove the status of places and persons, and everything useful in revealing the truth, and hear the statements of those who were present, or from whom clarifications can be obtained regarding the incident and its perpetrator.

He must immediately notify the Public Prosecution of his transfer, and the Public Prosecution must, as soon as it is notified of a flagrante delicto, immediately move to the place of the incident."

The failure of the Public Prosecution and before it the Judicial Control Officer to conduct an inspection of the place of the incident cannot be a reason for appealing against the verdict because it is nothing more than a defect for the investigation that took place in the pre-trial stage, and the accused or his defender has no objection to the court for its failure to conduct an investigation that it did not request and did not see the need to conduct after it was reassured of the validity of the incident from the evidence presented to it [274].

([272]) Appeal No. 11670 of 87 S issued at the hearing of October 13, 2019 (unpublished), Appeal No. 17495 of 86 S issued at the hearing of April 8, 2018 (unpublished).

([273]) Appeal No. 29358 of 86 S issued at the session of January 14, 2017 (unpublished), and see: Appeal No. 1421 of 55 S issued at the session of May 30, 1985 and published in the first part of the Technical Office's letter No. 36 page No. 736 rule No. 129.

([274]) See Appeal No. 14047 of 86 S issued on July 22, 2018 (unpublished).

The Court of Cassation also ruled that: [... What the First Appellant raises from the obituary regarding the omission of the Public Prosecution from the duty imposed on it by Article 31 of the Code of Criminal Procedure and the failure to carry out an inspection of the place of the incident and make a sketch of it and the failure to seize the tools of the

Subsection 2: Gathering Clarifications

Article 31 of the Criminal Procedure Law stipulates that: "In the event of flagrante delicto, the judicial officer must immediately move to the place of the incident, and hear the statements of those who were present, or from whom clarifications can be obtained regarding the incident and its perpetrator."

Article 32 also stipulates that: "The judicial officer may, upon his transfer in the event of flagrante delicto, prevent those present from leaving the scene of the incident or staying away from it until the record is drawn up, and he may immediately summon those from whom clarifications can be obtained regarding the incident."

Article 33 of the Criminal Procedure Law stipulates that: "If one of the attendees violates the order of the judicial officers in accordance with the previous article, or if one of those who invited them refuses to attend, this shall be mentioned in the record and the violator shall be sentenced to a fine not exceeding thirty pounds, and the judgment shall be issued by the District Court based on the record drawn up by the judicial officer."

The judicial enforcement officer may, in case of flagrante delicto, take the following measures:

1. Hearing the statements of those who were present, or from whom clarifications can be obtained regarding the incident and its perpetrator;

2-The judicial officer may, upon his transfer in case of flagrante delicto, prevent those present from leaving the scene of the incident or staying away from it until the record is drawn up.

Subsection 3: The Order to Remain in Place

It is similar to stopping or preparing a copy of it, and the Court of Cassation has defined it as the order not to move issued by the officer to those present in the place he enters legally is a procedure intended for the regime to settle in this place until the task for which he came is completed [275].

crime and seize it is only a defect of the investigation that took place in the stage preceding the court, which cannot be a reason to appeal the judgment] Appeal No. 2005 of 78 s issued at the session of January 5, 2017 (unpublished), and see also: Appeal No. 4537 of 57 s issued at the session of January 14, 1988 and published in the first part of the Technical Office's book No. 39 page No. 164 rule No. 19.

It also ruled that: [... It is proven from the minutes of the court session on ..... That the defenders of the appellants were limited in their pleading to the obituary of the Public Prosecution not to conduct an inspection of the place of the incident, and the difference in the seizures in the minutes of the seizure of the investigations of the prosecution, and none of them asked the trial court to correct this deficiency, nor did he raise anything about the failure to ask the residents of the place of the demonstration, or the members of the force accompanying the officer of the incident, and then it is not permissible for them - afterwards - to raise this for the first time before the Court of Cassation, as it is only a defect of the procedures preceding the trial, which cannot be a reason for appealing the judgment, and the obituary on the judgment in this regard is unacceptable] Appeal No. 26166 of 84 Q issued at the session of April 8, 2015 (unpubliterated)..

([275]) See Appeal No. 119 of 47 s issued at the session of May 15, 1977 and published in the first part of the Technical Office's letter No. 28 page No. 591 rule No. 125, Appeal No. 1955 of 30 s issued at the session of February 6, 1961 and published in the first part of the Technical Office's letter No. 12 page No. 170 rule No. 26..

Article 32 of the Code of Criminal Procedure allows the judicial officer to issue such an order in cases of flagrante delicto, even for non-accused persons. It stipulates that: "The judicial officer may, upon his transfer in case of flagrante delicto, prevent those present from leaving the scene of the incident or staying away from it until the record is drawn up."

If one of the attendees violates the order not to move, the judicial officer shall mention this in his record and the violator shall be sentenced to a fine not exceeding thirty pounds, and the judgment shall be issued by the District Court based on the record drawn up by the judicial officer (Article 33 of the Criminal Procedure Law).

Subsection 4: Summoning Individuals Who May Provide Clarifications

The judicial officer may immediately summon whoever can obtain clarifications regarding the incident, and he may not use force to force those present not to move away from the location of the incident, or to summon whoever he deems possible to obtain such clarifications, and all that results from violating his order is the commission of a violation punishable by a fine not exceeding thirty pounds, and the judgment shall be issued by the District Court based on the record drawn up by the judicial officer [276].

The Court of Cassation ruled that summoning the judicial officers of the accused because he was charged with a felony of murder associated with a felony of robbery at night with carrying a weapon is nothing more than asking him to attend to ask him about the accusation he made within the scope of what is required by the collection of evidence and does not imply that this summons is carried out by one of the men of the public authority as long as it does not include a material exposure to the plaintiff that could be an infringement or restriction of his personal freedom, which may then be confused by conducting the prohibited arrest of the judicial officer if the crime is not in a state of flagrante delicto, and if the court was satisfied within the limits of its discretion that summoning the appellant was not accompanied by coercion detracts from his freedom, its refusal to plead nullity of arrest and to ask the appellant about the record of collecting the evidence and the investigation of the Public Prosecution and what resulted in his acknowledgment of committing the crime is valid, which does not preclude the error of law[277].

Subsection 5: Arrest of the Accused

Article 34 of the Code of Criminal Procedure stipulates that: "The judicial officer may, in cases of flagrante delicto or misdemeanors punishable by imprisonment for a period of more than three months, order the arrest of the present accused, for whom there is sufficient evidence to charge him."[278].

([276]) Articles 32 and 33 of the Criminal Procedure Code.

([277]) Appeal No. 2819 of 57 S issued in the session of January 7, 1988 and published in the first part of the book of the Technical Office No. 39 page No. 90 rule No. 8..

([278]) The Court of Cassation ruled that: [Articles 34 and 35 of the Code of Criminal Procedure, as amended by Law No. 37 of 1972, allowed the judicial officer in cases of flagrante delicto punishable by imprisonment for a period of

Arrest is an investigation procedure, which is intended to deprive a person of the freedom to roam, even for a short period, and put him at the disposal of the Inferences and Investigations Authority, until it becomes clear to what extent he should be remanded in custody or released [279].

Arresting a person means restricting his freedom and subjecting him to arrest and detention, even for a short period, in preparation for taking some measures against him, without having to spend a certain period of time [280].

We address the arrest of the accused in four main points, the first of which is the right of the accused to his personal freedom, the conditions of arrest, and the guarantees of arrest, then we distinguish between arrest and detention.

First: The right to personal freedom

Everyone has the right to personal freedom [281].

Individuals may not be lawfully deprived of their liberty except in certain specific cases. International human rights standards provide for a series of procedures that ensure protection in order to ensure that no one is deprived of their liberty unlawfully or arbitrarily. They also provide safeguards against other forms of ill-treatment of detainees, including those that apply to all persons deprived of their liberty, while others apply to persons detained on criminal charges only. Others apply to specific categories of individuals, such as foreign nationals or children. Although

more than three months to arrest the present accused, for whom there is sufficient evidence to charge him. Article 46 of the same law allowed the search of the accused in cases where he may be legally arrested. The act of flagrante delicto was a characteristic of the crime itself and not of the person who committed it, which allows the judicial officer who witnessed its occurrence to arrest the accused, who has sufficient evidence that he committed it, and to search him without permission from the Public Prosecution. The case in the case at hand, as stated in the records of the contested judgment, was that if the officer of the incident implemented the permission issued to him to arrest and search the person of the first appellant, the presence of the second appellant was found and he saw him selling foreign currency to the first appellant, it was verified The case of flagrante delicto dealing in foreign exchange through banks other than those approved to deal in it or the legally licensed entities, punishable by imprisonment for a period of no less than three years and no more than ten years and a fine of no less than one million pounds and no more than five million pounds or the financial amount subject of the crime, whichever is greater. Sufficient evidence was also available that the second appellant committed it, and the procedures for his arrest and search initiated by the judicial officer afterwards were characterized by legality. Therefore, the appellant may take its result, and the immunity of the second appellant in this regard is unacceptable] Appeal No. 17646 For the 88th session of July 22, 2019 (unpublished), see also: Appeal No. 5979 of 88th session of November 21, 2018 (unpublished).

([279]) Article 360 of the Judicial Instructions of the Public Prosecution.

([280]) See Appeal No. 44270 of 85 S issued at the 22nd session of October 2016 and published in the Technical Office Book No. 67 page No. 735 rule No. 94, Appeal No. 30455 of 69 S issued at the 6th session of December 2007 and published in the Technical Office Book No. 58 page No. 779 rule No. 146, Appeal No. 2761 of 56 S issued at the 25th session of February 1987 and published in the first part of the Technical Office Book No. 38 page No. 325 rule No. 48, Appeal No. 405 of 36 S issued at the 16th session of May 1966 and published in the second part of the Technical Office Book No. 17 page No. 613 rule No. 110, and Appeal No. 212 of 29 S issued at the 27th session of April 1959 and published in the second part of the Technical Office Book No. 10 page No. 482 rule No. 105..

([281]) Article 3 of the Universal Declaration, Article 9 (1) of the International Covenant, Article 16 (1) of the Migrant Workers Convention, Article 6 of the African Charter, Article 7 (1) of the American Convention, Article 14 (1) of the Arab Charter, Article 5 (1) of the European Convention, Section M (1) of the Principles of Fair Trial in Africa, and Article 1 of the American Declaration; see Article 37 (b) of the Convention on the Rights of the Child..

this guide introduces many of the rights that apply to all persons deprived of liberty, it focuses on the rights that apply to persons accused of committing criminal offences.

As a general rule, persons arrested on suspicion of criminal offences should not be detained pending trial.

It is one of the basic human rights that may not be violated, and it is a right established in all constitutional and legal systems, and stipulated in all international instruments and treaties, and its content: that every person has the right to personal freedom, and he may not be arrested or detained except for the reasons specified in the law, without arbitrariness, and in accordance with legal procedures and conditions, and by the authorities or persons authorized to do so by law. Personal freedom is a natural right, and it is inviolable, and it is inviolable. Except in the case of flagrante delicto, no one may be arrested, searched, imprisoned, or restricted in any way except by a reasoned judicial order necessitated by the investigation[282].

Everyone has the right to life, liberty and security of person [283].

Everyone has the right to liberty and security of person, and no person may be arrested or detained, and no person may be deprived of his liberty except on the grounds and in accordance with the procedures stipulated by law [284].

Related to the right to liberty is another inherent right, which is the right to be presumed innocent until proven guilty by a final judgment. This right is one of the absolute rights to which no exception is made, and it must be respected at all times, including war and other emergencies.

The accused is innocent until proven guilty in a fair legal trial [285].

Second: Conditions of Arrest

1. When is arrest or detention lawful?

It is not permissible to deprive an individual of his liberty except on the grounds specified by law and in accordance with the procedures[286] prescribed therein.

([282]) Article 54 of the amended Constitution of the Arab Republic of Egypt for the year 2014.

([283]) Article 3 of the Universal Declaration of Human Rights.

([284]) The first paragraph of Article 9 of the International Covenant on Civil and Political Rights.

([285]) Article 96 of the amended Constitution of the Arab Republic of Egypt of 2014, Article 11 of the Universal Declaration of Human Rights, and the second paragraph of Article 14 of the International Covenant on Civil and Political Rights.

([286]) Article 9 (1) of the International Covenant, Article 17 (2) (a) of the Convention on Enforced Disappearances, Article 37 (b) of the Convention on the Rights of the Child, Article 16 (4) of the Migrant Workers Convention, Article 6 of the African Charter, Articles 7 (2) and 7 (3) of the American Convention, Article 14 (2) of the Arab Charter, Article 5 (1) of the European Convention, Principle 2 of the Body of Principles, Section M (1) (b) of the Principles for a Fair Trial in Africa, Article 25 of the American Declaration, and Principle 4 of the Principles Relating to Persons Deprived of their Liberty in the Americas.

National laws authorizing arrest and detention, and those establishing arrest and detention procedures, must be consistent with international standards [287].

Examples of arrests and detentions that are inconsistent with national laws include those committed for crimes on the basis of which the law does not allow arrest[288] .

Arrests made without issuing an arrest warrant in circumstances where national law requires this,[289].

Detention of individuals for periods longer than permitted by national law [290].

Arrests and detentions should not be based on discriminatory grounds and any policies and procedures allowing arrest and detention should be prohibited on racial or ethnic grounds, or on any other basis of stereotypical targeting [291].

The European Convention has set out the only circumstances in which States Parties to the Convention may deprive persons of their liberty and the list in Article 5 (1) covers all such situations, and should be interpreted narrowly to protect the right to liberty [292].

One of the grounds on which a person may be arrested under the European Convention is to bring him before a competent legal authority on reasonable suspicion that he has committed a criminal act [293].

The European Court has ruled that it can be said that there is a reasonable suspicion that justifies an arrest when there are "facts or information that an objective observer accepts that the person concerned may have committed the offence" [294].

([287]) Principle 4 of the Principles Relating to Persons Deprived of Liberty in the Americas.

Australia, Human Rights Commission, / UN Doc. CCPR 5/9§ (1997) C/59/D/560/1993; European Court: Bozano v. France 5/9§ (1986) ,(82/9990) , Lukanov v. Bulgaria (21915/ 93), (1997) 41§ , Baranowski v. Poland (28358/ 95), (52-50§ (2000), Medvedev et al. v. France (3394/03), Grand Chamber (80-79 § § (2010); Gangaram-Pandeh v. Suriname, Inter-American Court (47-46§ § (1994); Alfonso Martín del Campo Dodd v. Mexico (12.228 , Report 117/09), U.S. Commission 22§ (2009)..

Latifin [288]v. Kyrgyzstan, Human Rights Commission, 2/§8 (2010) UN Doc. CCPR/C/98/D/1312/2004..

([289]) Tibi v. Ecuador, Inter-American Court §103 (2004).

([290]) Opinion No. 10/2009 of the Working Group on Arbitrary Detention (Venezuela), 2009) UN Doc. A/HRC/13/30/Add.1) pp. 172-179 §52§ (b) 53-; Alfonso Martín Delcampo Dodd v. Mexico (12) .228, Report 117/90), American Commission §25-§22 (2009).

([291]) General Recommendation No. 31 of the Committee on the Elimination of Racial Discrimination, §3§ (a) (20) and(23); Williams Lycraft v. Spain (1493/2006) of the Human Rights Committee, 8-2/§ 7§ (2009); General Policy Recommendation No. 11 of the European Commission against Racism and Intolerance on combating racism and racial discrimination in policing; Status of persons of African descent in the Americas, Inter-American Commission, §162- § 143 (2011); see Gillan and Quinton v. United Kingdom (05/4158), European Court, §85 (2010).

([292]) See European Court: Quinn v. France (18580 / 91), §42 (1995), Bitta v. Italy (26772 / 95), §170 (2000), Medvedev et al. v. France, (3394/03) Grand Chamber §78 (2010).

([293]) Article 5 (1) (c) of the European Convention.

([294]) See European Court: Fox, Campbell and Hartley v. United Kingdom §32 (1990), (86/12383, 86/12245,86/12244), Marais v. United Kingdom (14310 / 88) Grand Chamber, §63- §50 (1994).

Moreover, reasonable suspicion must be related to acts that constituted a crime by law at the time they were committed [295].

Where a person has been detained under a law allowing preventive detention, allegedly to prevent him from committing a criminal offence, and without having been investigated or charged, the European Court has concluded that the detention constituted a violation of the right to liberty [296].

The first condition: Flagellation of a felony or misdemeanor punishable by imprisonment for a period of more than three months

It is clear from the text of Article 34 of the Code of Criminal Procedure that in order to arrest the accused present in cases of flagrante delicto, the crime committed in flagrante delicto must be one of the felonies or misdemeanors punishable by imprisonment for a period exceeding three months[297].

See also Guideline 7(1) of the Council of Europe Guidelines on Human Rights and Counter-Terrorism; General Recommendation No. 11 of the European Commission against Racism and Intolerance, §3 (2007).

([295]) European Court: Fluch v. Poland (27785/ 95), (- §108§ (2000 109), Kandjov v. Bulgaria (68294 / 01), §62- §52 (2008)..

([296]) Gius v. Lithuania (34578 / 97), European Court (2000) .§52- §47..

([297]) The Court of Cassation ruled that: [... The judicial officer may, under the judicial authority authorized by Articles 34/1 and 46 of the Code of Criminal Procedure, arrest the defendant present who has sufficient evidence to be charged with the felony of drug possession, and search him without the need for an order from the investigating authority] Appeal No. 2410 of 86 S issued at the 24th session of March of 2018 (unpublished), Appeal No. 208 of 85 S issued at the 6th session of April of 2017 (unpublished)

It also ruled that: [... Whereas, the contested judgment had offered to plead the invalidity of the arrest and search of the appellants because of the absence of the state of flagrante delicto and put it forward, as he was reassured by the statements of the officer of the incident, the first witness of the evidence that he informed the Center of the existence of a march against the supporters of the Brotherhood, during which they blocked the public road, fired fireworks and incendiary devices, fired firearms from cartridges and threw stones at some shops, so there was damage to the facades of those shops, the defendants (appellants) were caught by the knowledge of the parents of the scene of the accident, which arranges the state of flagrantement of those crimes that allows the judicial officer to seize and search the appellants without permission from the Public Prosecution, which is sufficient and justifiable in response to the payment and is consistent with the correct law in accordance with Articles 34, 35, 37, 37, 46 of the Code of Criminal Procedure] Appeal No. 37205 of 85 issued at the hearing of November 25, 2017 (unpublished).

It also ruled that: [It is established from the contested judgment in its statement of the case incident and its evidence that the incident officer, after being informed of the kidnapping incident, conducted the necessary investigations so that he was able soon after to arrest the first appellant and the kidnapped child, which makes him flagrante delicto committing the felony of kidnapping the victim child, which allows the incident officer to arrest and search him, as well as the arrest of the second and third appellants whose investigations resulted in their contribution to the crime in question] Appeal No. 4220 of 85 Q issued at the session of November 18, 2017 (unpublished), and see: Appeal No. 2410 of 86 Q issued at the session of March 24, 2018 (unpublished)

It also ruled that: [Since Article 34 of the Code of Criminal Procedure allows the judicial officer to arrest the accused in cases of flagrante delicto in general if the law punishes them with imprisonment for a period of more than three months, and it was established from the judgment that the officer caught the appellant driving a car without metal plates, which is a misdemeanor - according to the foregoing - punishable by imprisonment for a period not exceeding six months in accordance with the text of Article 75/2 of the Traffic Law No. 66 of 1973, as amended by Law No. 121 of 2008, the appellant's arrest is valid] Appeal No. 49902 of 85 s issued at the session of February 28, 2017 (unpublished), and see also: Appeal No. 49787 of 85 s issued at the session of February 28, 2017 (unpublished), Appeal No. 29358 of 86 s issued at the session of January 14, 2017.

It ruled that: [Watching the arresting officer - the appellant holding in his hand a firearm "individual cartridge" in a visible way is considered per se to be in flagrante delicto carrying a weapon without a license that allows the judicial

arresting officer to arrest and search him pursuant to the provisions of Articles 34 and 46 of the Criminal Procedure Law] Appeal No. 51387 of 85 S issued at the session of February 28, 2017 (unpublished), Appeal No. 5346 of 81 S issued at the session of April 15, 2012 (unpublished), Appeal No. 4033 of 81 S issued at the session of January 1, 2012 and published in the letter of the Technical Office No. 63, page No. 33, rule No. 3

It ruled that: [Article 34 of the Criminal Procedure Law has allowed the judicial officer to arrest the accused in cases of flagrante delicto or misdemeanors in general if the law punishes them with imprisonment for a period of more than three months. The penalty is estimated as stipulated in the law and not as pronounced by the judge in the judgment. The crimes of acquiring explosives without a license and using them in a way that would endanger the lives of persons and funds, participating in a demonstration without notification from the competent authorities that violated public order and endangered the lives of persons and public property, and promoting by word and leaflet to disrupt the Constitution and the law and prevent state institutions and public authorities from practicing their work. The law has linked the penalties of life imprisonment, severe imprisonment, imprisonment and fine under Articles 98b, 102 (a), (c) of the Penal Code and Articles 1, 2, 3, 4, 6/1, 7, 8 and 17 of Law No. 107 of 2013 on demonstration. It justifies the judicial arrest of the accused therein. In accordance with Article 31 of the Criminal Procedure Law, which requires him to move immediately to the place of the incident and to inspect and preserve the material effects of the crime, as well as Articles 34 and 46 of the same law, which allows him to arrest the present accused who has sufficient evidence of his accusation and search him, and therefore the court, having concluded the conviction of the accused of the crimes mentioned and raised the plea of nullity of arrest and search, has applied the correct law and its ruling is free of deficiencies in this regard and the obituary for him in this regard is incorrect] Appeal No. 31186 of 85 BC issued at the session of 25 February 2017 (unpublished).

It ruled that: [It is established that flagrante delicto is a condition inherent in the crime itself and not the person of its perpetrator, and that the fact that the judicial officer reports the crime to a third party, whether the witness or the accused confesses to himself, is not sufficient for the case of flagrante delicto to arise as long as he has not witnessed a self-evident impact of it. The perpetrator of the incident mentioned in the judgment had no evidence that the crime was witnessed in one of the cases of flagrante delicto described exclusively in Article 30 of the Code of Criminal Procedure. It is not correct to rely on the statement that the appellant was in a state of flagrante delicto for the crime of possessing a narcotic substance, and therefore the officer is not in front of a crime in flagrante delicto, and his arrest of the appellant is not justified and has no basis in the law] Appeal No. 31155 of 84 BC issued at the session of 26 March 2016 (unpublished).

The Court of Cassation ruled that: [Watching the appellant arrestee holding a bag with the drug "Tramadol" in his hand apparently, the appellant does not claim in the reasons for his appeal that the bag does not heal what is inside itself is considered flagrante delicto without a license that allows the judicial arrestee to arrest and search him pursuant to the provisions of Articles 34 and 46 of the Code of Criminal Procedure. The judgment is valid in the case of refusing to pay the nullity of the arrest and search procedures based on the availability of the case of flagrante delicto, and what the appellant raises in this regard becomes invalid.] Appeal No. 25776 of 84 Q issued at the session of February 7, 2016 (unpublished).

It ruled that: [Articles 34 and 35 of the Code of Criminal Procedure, amended by Law No. 37 of 1972, allowed the judicial officer in cases of flagrante delicto punishable by imprisonment for a period of more than three months to arrest the present accused, for whom there is sufficient evidence of accusation. If he is not present, the judicial officer may issue an order to arrest and bring him. Article 46 of the Code of Criminal Procedure allows the search of the accused in cases where it is legally permissible to arrest him. Flagrante delicto was a characteristic associated with the crime itself and not a person who committed it, which allows the judicial officer who witnessed its occurrence to arrest the accused who has sufficient evidence of committing it and to be searched without permission from the Public Prosecution. Article 37 of the Code of Criminal Procedure also allows non-judicial officers to hand over and bring the accused to the nearest judicial officer for judicial arrest in felonies or misdemeanors in which it is permissible to remand in custody whenever the felony or misdemeanor is in a state of flagrante delicto. This authority requires that individual persons have the custody of the accused and the body of the crime with which he saw him, as this procedure is necessary and necessary to carry out that authority in the manner prescribed by the law, in order to hand him over to the judicial officer, and nothing in the law prevents the court within the limits of its authority to assess the evidence of the case from inferring the state of flagrante delicto on the accused as long as it shows that they were seen running from the scene of the incident immediately after it happened and the parents shouting behind them as they were preparing in front of them until they were caught at a distance from the scene of the incident, and watching the appellant judicial officers and those with them on the march carrying visible firearms. And white weapons and tools used to attack people in their hands is itself considered a crime of carrying a weapon that allows the judicial officer to arrest and search them] Appeal No. 645 of 85 S issued at the hearing of 14 December 2015 and published in the book of the Technical Office No. 66 Page No. 868 Rule No. 129.

It ruled that: [...Article 77/1 Clause "2" of the Telecommunications Law No. 10 of 2003 has been allocated for the crime of possessing wireless communication devices without obtaining a permit, the penalty of imprisonment for a

period of no less than one year and a fine of no less than twenty thousand pounds and no more than fifty thousand pounds or one of these two penalties, it entitles the arresting officer to arrest the accused in flagrante delicto...] Appeal No. 15915 of 84 S issued at the session of January 12, 2015 and published in the technical office letter No. 66 page No. 144 rule No. 11.

The Court of Cassation also ruled that the crime of driving a fast transport vehicle without metal plates, including tuk-tuk motorcycles, is one of the misdemeanors that justify arrest and search. Appeal No. 10916 of 84 S issued on December 8, 2014 and published in the Technical Office's letter No. 65, page No. 942, rule No. 125.

It ruled: [Article 34 of the Code of Criminal Procedure allows the judicial officer to arrest the accused in cases of flagrante delicto in general if the law is punishable by imprisonment for a period of more than three months, and it is proven from the judgment that the officer caught the appellant while driving a motorcycle without driving licenses, which is a misdemeanor punishable by imprisonment for a period not exceeding six months in accordance with the text of Article 75 of Law No. 66 of 1973 promulgating the Traffic Law amended by Law No. 121 of 2008, and therefore the arrest of the appellant is valid.] Appeal No. 18712 of 83 s issued at the hearing of April 7, 2014 (unpublished)- Appeal No. 8155 of 81 s issued at the hearing of April 7, 2012 (unpublished), Appeal No. 4860 of 80 s issued at the hearing of March 21, 2011 (unpublished)

It ruled that: [The crime of reverse traffic, which was committed by the appellant - and this was not disputed by the reasons for his appeal - has been linked by law to the penalty of imprisonment and a fine of no less than one thousand pounds and no more than three thousand pounds or one of these two penalties, pursuant to the text of Article 76 bis of Law No. 66 of 1973 promulgating the Traffic Law added by Law No. 121 of 2008, it entitles the arresting officer to arrest the accused in it] Appeal No. 10137 of 83Q issued at the session of June 10, 2014 and published in the Technical Office's book No. 65 page No. 537 Rule No. 63,

It also ruled that: [The judgment was presented to the defense presented by the appellant that the arrest and search were null and void because it was contrary to the provisions of the law due to the lack of flagrante delicto, and it was put forward based on the fact that the officer saw the appellant selling alcohol in the public way, so he seized it and by unsealing a bag she was carrying in her hand, it was found that it contained the seized narcotic substances. Whereas, Article 34 of the Criminal Procedures Law has allowed the judicial officer to arrest the accused in cases of flagrante delicto in general, as the law is punishable by imprisonment for a period of more than three months, and if the crime of whoever is caught in a public place selling the alcohol substances that the appellant has consumed, the law has linked to it the penalty of imprisonment for a period not exceeding six months and a fine not exceeding two hundred pounds or one of these two penalties in accordance with the text of Article 5 of Law No. 63 of 1976 prohibiting drinking alcohol] Appeal No. 29774 of 83Q issued at the session of 5 June 2014 (unpublished).

It ruled: [If the crime of violating the provisions of surveillance imposed by the appellant has been linked by law to the punishment of imprisonment for a period not exceeding one year under Article 13 of Decree-Law No. 99 of 1945 regarding placement under police surveillance, it entitles the arresting officer to arrest the accused in it, and in addition, Article 16 of the aforementioned Decree-Law entitles the judicial control officer to arrest the person under police surveillance when there is strong evidence that he committed a felony, attempt, or misdemeanor, which may be sentenced to imprisonment.] Appeal No. 24179 of 83 BC issued at the session of 13 May 2014 (unpublished).

It ruled that: [Articles 34 and 35 of the Code of Criminal Procedure, as amended by Law No. 37 of 1972, have allowed the judicial officer in cases of flagrante delicto punishable by imprisonment for a period of more than three months to arrest the accused present who has sufficient evidence of his accusation. If he is not present, the judicial officer may issue an order to arrest him and bring him. Flagrante delicto is a characteristic of the crime itself and not a person who committed it, which allows the judicial officer who witnessed its occurrence to arrest The accused, who has sufficient evidence that he has committed it, shall be searched without the permission of the Public Prosecution. In the case at hand, as stated in the records of the contested judgment, and in response to the plea of the appellant that his arrest and search are null and void, the officer witnessed the appellant crossing the railway tracks from a place not designated for pedestrian crossing, the case of flagrante delicto of crossing the railway lines in places other than those designated for this purpose and criminalized in Articles 14 and 20 of Law 277 of 1959 regarding the railway travel system amended by Law No. 13 of 1999, which is punishable Imprisonment for a period not exceeding six months and a fine not exceeding twenty pounds or one of these two penalties, which allows the judicial officer to arrest the appellant] Appeal No. 29598 of 77 S issued at the session of 7 April 2014 and published in the letter of the Technical Office No. 65 page No. 247 rule No. 25.

It ruled that: [Article 34 of the Code of Criminal Procedure allows the judicial officer to arrest the accused in cases of flagrante delicto in general if the law is punishable by imprisonment for a period of more than three months, and it is established from the judgment in response to the defense of the second appellant that the arrest and search is null and void, that the officer of the incident seized him after he was found to be driving the motorcycle without driving and driving licenses, which is a misdemeanor punishable by imprisonment for a period not exceeding six months in accordance with the text of Article 75 of Law No. 66 of 1973 promulgating the Traffic Law amended by Law No. 121

of 2008, and therefore the arrest of the second appellant occurred correctly. [Appeal No. 4648 of 83 S issued on November 4, 2013 (unpublished).

It also ruled that : [. Whereas, and the incident, as mentioned above, makes the arrestee in the face of the crime of attempted theft, which is criminalized in the second and third paragraphs of Article 316 ter of the Penal Code, flagrante delicto, whose penalty exceeds three months, and then allows the judicial arrestee to arrest and search the appellant] Appeal No. 5828 of 83 S issued at the session of November 4, 2013 (unpublished).

It ruled: [The court has concluded, within the limits of its substantive authority and from the permissible evidence it stated, that the officer's meeting with the appellants took place within the limits of the legally legitimate investigation procedures, and that the arrest of the appellants and the seizure of the trace offered for sale took place after the crime of possessing an trace owned by the state for the purpose of trafficking and in other than the legally authorized cases of flagrante delicto, in which the officer pretended to participate with the guide in his purchase from the appellants, and as this crime was one of the misdemeanors punishable by imprisonment for a period of more than three months, and the judicial officer had serious and sufficient evidence of the accusation of the appellants to commit it, then he may order their arrest as long as they were present, in accordance with the text of Article 34 of the Code of Criminal Procedure, as amended by Law No. 37 of 1972] Appeal No. 19082 of 76 issued at the session of 22 January 2013 and published in the book of the Technical Office No. 64, page 151, rule No. 16.

It ruled that Law No. 4 of 1990 regarding the subway is free from criminalization or punishment for riding a person in the carriage designated for women on the subway, which results in the inadmissibility of arresting or searching him, Appeal No. 30967 of 75 S issued at the session of November 3, 2012 and published in the book of the Technical Office No. 63 page No. 595 rule No. 106

The Court of Cassation ruled that: [Whereas the text of Articles 34 and 35 of the Criminal Procedure Law, as amended by Law No. 73 of 1972, does not allow the judicial officer to arrest the accused present except in cases of flagrante delicto punishable by imprisonment for a period exceeding three months if there is sufficient evidence of his accusation, and Article 46 of the same law empowers him to search the accused in cases where it is legally permissible to arrest him, whatever the reason or purpose of the arrest, Whereas the contested judgment proved that the officers of the incident seized the appellant immediately after his attempt to escape, following his acknowledgment that he did not hold a driving or driving license, without indicating whether the incident that the appellant was involved in was limited to not holding a driving and driving license in violation of the provisions of Article 12/2, 41 of Law No. 66 of 1973, as amended by Law No. 121 of 2008, which stipulates that the license of the vehicle must be in it, and that the licensee holds a driving license while driving and submits it to the police and traffic officers whenever they request it, which is a violation punishable by Article 77 of the law. Twenty pounds and not more than fifty pounds, and therefore does not allow the arrest and search of the appellant, or that the incident that the appellant drove a vehicle without obtaining a driving license or driving criminal article 74 bis/ 2 added to Law No. 121 of 2008, which stipulates that the penalty shall be imprisonment for a period not exceeding six months and a fine of not less than one hundred pounds and not more than five hundred pounds, or one of these two penalties, whoever drives a vehicle without obtaining a driving license or a driving license "and then he may be arrested, searched and searched for his driving, whether owned or leased to him, because its deprivation is derived from its contact with the person in possession, and then the contested judgment is sacrificed, as well as its incompatibility is tainted with the contradiction that the appellant can afford, which necessitates its reversal]. Appeal No. 4467 of 81 S issued at the session of 19 May 2012 (unpublished).

It ruled that: [Articles 12 and 41 of Law No. 66 of 1973 regarding the issuance of the Traffic Law required every driver of a vehicle to provide driving and driving licenses to the police and traffic officers whenever they requested, and Article 77 of the same law, as amended by Law No. 121 of 2008, punished every violation of those two texts with the penalty of the violation, which is a fine not exceeding fifty pounds, and if the contested judgment proved that the officer had searched the appellant when he was asked to provide the driving and driving licenses and did not submit them to him, the incident in this way does not provide the appellant with the case of flagrante delictum stipulated in Articles 34 and 35 of the Code of Criminal Procedure, and therefore does not allow the judicial officer the right of arrest and search, even if it is preventive] Appeal No. 2351 of 81 issued at the session of February 15, 2012 (unpublished)

It ruled that: [The Code of Criminal Procedure, in its article 34, authorizes the judicial officer to arrest the accused in cases of flagrante delicto in general if the law punishes him with imprisonment for a period of more than three months when there is sufficient evidence to charge him with the crime, and the main thing in estimating the penalty is what is stipulated in the law and not what the judge pronounces in the judgment, and since the crime of throwing dirt inside the yards of stations or on the railway bridges that the contested against falls under the text of Articles 10 (h) and 20 of Law No. 277 of 1959 regarding the railway travel system, which linked the penalty of imprisonment to it for a period not exceeding six months and a fine not exceeding twenty pounds or one of these two penalties, it was

However, if the crime committed in flagrante delicto depends on a complaint, the accused may not be arrested unless the complaint is declared by the person who has the right to submit it. In this case, the complaint may be filed by a member of the public authority (Article 39 Criminal procedures). This provision indicates that in other cases, if the crime committed in flagrante delicto depends on a permit or request, the arresting officers may arrest the accused and take all these investigative measures before submitting the permit or request [298].

The lesson in assessing the punishment is what is stipulated in the law, not what the judge pronounces in the judgment [299].

Condition 2: Sufficient Evidence of Accusation

It is also required for the arrest of the accused - as evidenced by the text of Article 34 of the Code of Criminal Procedure - the existence of sufficient evidence of the accusation, and the assessment of the availability of flagrante delicto is one of the objective matters that are initially entrusted to the judicial officer, provided that his assessment is subject to the control of the investigating authority under the supervision of the trial court - according to the facts presented to it - without comment as long as the result that it reached is logically consistent with the premises and facts that it established in its judgment, provided that the reasons and considerations on which the court bases its assessment are valid until they lead to the result that it reached [300].

permissible for the judicial officer to arrest the accused] Appeal No. 26303 of 73 Q issued at the hearing of April 26, 2010 and published in the book of the Technical Office No. 61, page No. 348, rule No. 46.

It ruled that: [Since the crime of throwing dirt inside the railway yards of the respondent falls under the text of Articles 10/ H, 20 of Decree-Law No. 277 of 1959, which linked the penalty of imprisonment for a period not exceeding six months and a fine not exceeding twenty pounds or one of these two penalties, it was permissible for the judicial officer to arrest the accused] Appeal No. 23182 of 73 S issued at the session of 11 March 2010 and published in the book of the Technical Office No. 61 page No. 256 rule No. 31.

It ruled that: [Since Article 1/2 of Law No. 277 of 1959, as amended by Law No. 13 of 1999 regarding the railway travel system, prohibited the entry into or exit from stations and parking lots "Multan" except from the places designated for that purpose, and Article 20/2 of the same law punished anyone who violates this by imprisonment for a period not exceeding one week and a fine not exceeding one pound or one of these two penalties, and if the contested judgment proved that the officer had arrested the appellant and searized the bag he was carrying, after entering the railway station from places other than the places designated for that purpose, the incident in this way does not provide the right of the appellant in flagrantement stipulated in Articles 34 and 35 of the Code of Criminal Procedure, and therefore does not allow the judicial officer the right of arrest and search, even if it is preventive] Appeal No. 7784 of 73 Q issued at the session of January 27, 2010 (unpublished).

([298]) Appeal No. 3679 of 56 S issued in the session of November 2, 1986 and published in the first part of the book of the Technical Office No. 37 page No. 812 rule No. 157.

([299]) See Appeal No. 11530 of 86 S issued at the 27th session of October 2018 (unpublished), Appeal No. 26303 of 73 S issued at the 26th session of April 2010 and published in the Technical Office's letter No. 61, page No. 348, rule No. 46, Appeal No. 20755 of 70 S issued at the 6th session of April 2008 and published in the Technical Office's letter No. 59, page No. 255, rule No. 43, appeal No. 4064 For the year 56 S issued in the session of November 13, 1986 and published in the first part of the technical office book No. 37 Page 878 Rule No. 169, Appeal No. 902 of 55 S issued in the session of May 9, 1985 and published in the first part of the technical office book No. 36 Page 643 Rule No. 113, Appeal No. 865 of 45 S issued in the session of June 8, 1975 and published in the first part of the technical office book No. 26 Page 500 Rule No. 117, Appeal No. 1769 of 38 S issued in the session of January 13, 1969 and published in the first part of the office book Technician No. 20 Page No. 96 Rule No. 21.

([300]) The Court of Cassation ruled that: [It is decided that the judicial seizure officer - without the permission of the Public Prosecution or the investigating authority - should not be subjected to the personal freedom of individual

people except in case of flagrante delicto, and considering that flagrante delicto is a condition of the crime and not the person of the perpetrator, and it was decided in this court that the state of flagrante delicto requires that the judicial seizure officer verify that the crime was watched by himself or perceives it with a sense of his senses, and that while the assessment of the circumstances that clothed the crime and surrounded it at the time of its commission, and the extent of its sufficiency for the state of flagrante delicto is entrusted to the trial court, it is conditional that the reasons and considerations on which the court bases its assessment are valid to lead to the result that it reached, and what the ruling in response to the pleament does not show that the judicial seizure and search are the anest. Whereas, the arrest of the appellant has occurred in a state other than flagrante delicto and without sufficient evidence of the validity of his accusation] Appeal No. 26133 of 86 S issued at the session of February 28, 2017 (unpublished).

It ruled that: [If the judgment proves that the Public Prosecution issued its order to seize and search the person and residence of the investigator.... To seize the narcotic substances in its possession or possession, and when the appellant felt them, he tried to escape. The officer of the incident followed him and was able to seize him. By opening the bag he was carrying, he found ten paper rolls inside him by breaking them that were found to contain the narcotic plant banjo. The inspection of this image is correct in law because the presence of the appellant with the person who issued the order to seize and search them and the appellant's attempt to escape from seeing the police officers is a strong suspicion of his accusation, which justifies his arrest and search based on the provision of Article 34 of the Criminal Procedure Law, even if the search order is limited to those who are authorized to seize and search them only, and the appellant's immunity in this regard is not valid.] Appeal No. 5420 of 83 Q issued at the session of June 10, 2014 (unpublished).

The Court of Cassation ruled that: [Flagrante delicto is a characteristic of the crime itself and not a person who commits it, and if the judgment was based on the permissible considerations that he cited from authorizing the arrest of the appellant to arrest him in flagrante delicto for assaulting a person by force shortly after committing it and watching its effects from the presence of me on the pants of the victim in a way that foretells the commission of that crime and allows the judicial officer to arrest him pursuant to Article 34 of the Code of Criminal Procedure, and therefore what the appellant raises in this regard is not valid] Appeal No. 7706 of 78 BC issued at the session of January 5, 2017 (unpublished).

It ruled that: [It is established that the case of flagrante delicto allows the judicial officer in accordance with Articles 34 and 46 of the Code of Criminal Procedure to arrest and search the present accused who has sufficient evidence of his accusation, and the assessment of the availability or non-availability of the case of flagrante delicto is one of the purely objective matters that are initially entrusted to the judicial officer, provided that his assessment is subject to the control of the investigating authority under the supervision of the trial court according to the facts presented to it without delay as long as the result that it reached is consistent with the premises and facts that it proved in its judgment, The contested judgment, after providing a copy of the incident, obtained the appellant's defense of the nullity of the arrest and search and responded by saying, "Since it is about the defense of the defendants of the nullity of the arrest and search for the absence of flagrante delicto, it is a misplaced defense, as flagrante delicto is a condition that accompanies the crime and is available against the perpetrator when it is seized immediately or soon after its commission or followed by shouting from the public after its occurrence or seizure soon after its occurrence with tools, luggage, papers or other things indicating that he is the perpetrator or caught after its commission It has traces or signs that indicate that he and only the perpetrator or an accomplice in the crime, which in all cases is the seizure of the crime and its fire is burning or the smoke of its fire is still rising. Whereas, the defendants had provided the victim with the forged amount, so he informed the incident officer, who informed him of the location of the incident, so the victim provided him with the forged amount that the defendants had saved him in exchange for buying a motorcycle, and the amount was for securities of different categories bearing each category one serial number, so the incident officer seized them. Therefore, what the incident officer did does not fall outside the scope of procedural legitimacy specified in Article 20 of the Criminal Procedure Law, and the defense presented by the defendants in this regard is misplaced and the court turns away from it. "It is a sufficient and justifiable response that is consistent with the correctness of the law. What the appellants raise in this regard is invalid [Appeal No. 4192 of 81 S issued at the session of February 9, 2012 and published in the letter of the Technical Office No. 63 page No. 195 rule No. 25.

See: Appeal No. 3322 of 85 S issued at the session of January 2, 2016 and published in the letter of the Technical Office No. 67, page No. 23, rule No. 2, Appeal No. 645 of 85 S issued at the session of December 14, 2015 and published in the letter of the Technical Office No. 66, page No. 868, rule No. 129, Appeal No. 21527 of 84 S issued at the session of March 2, 2015 (unpublished), Appeal No. 24057 of 84 S issued at the session of February 5, 2015 (unpublished), Appeal No. 15682 of 83 S issued at the 8th session of April 2014 (unpublished), Appeal No. 17780 of 83 S issued at the 7th session of April 2014 (unpublished), Appeal No. 11501 of 83 S issued at the 2nd session of February 2014 and published in the Technical Office letter No. 65, page No. 42, rule No. 4, Appeal No. 4876 of 83 S issued at the 4th session of November 2013 (unpublished), Appeal No. 6068 of 82 S issued at the 24th session

Whereas Article 34 of the Criminal Procedure Law has allowed the judicial officer to arrest the defendant present who has sufficient evidence of his accusation, the presence here is not limited to the actual presence alone, that is, the presence in which the defendant is present before the judicial officer, but it is sufficient for the presence to be legally in the judgment of the defendant present, which justifies saying whenever the crime is in a state of flagrante delicto and there is sufficient evidence of the defendant's contact with it and his original or subsequent contribution to it, and if the street limited the meaning of the presence in this place to the actual presence, it would not be possible for the judicial officers to perform their duties imposed on them by law from the initiative to arrest the defendant whose contribution to the crime, which is originally intended from the street letter to the officers in Articles 34, 35[301].

2. When is an arrest or detention arbitrary?

International standards prohibit the arbitrary arrest, detention or imprisonment of a person [302].

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of February 2013 (unpublished), Appeal No. 6019 of 82 S issued at the session of February 5, 2013 (unpublished), Appeal No. 18292 of 75 S issued at the session of November 13, 2012 and published in Technical Office letter No. 63, page No. 678, rule No. 121, Appeal No. 1382 of 82 S issued at the session of November 5, 2012 (unpublished), Appeal No. 1382 of 82 S issued at the session of November 5, 2012(unpublished), Appeal No. 7616 of 81 S issued at the session of February 11, 2012 (unpublished), Appeal No. 3188 of 81 S issued at the session of November 27, 2011 (unpublished), Appeal No. 8517 of 79 S issued at the session of October 5, 2011 (unpublished), Appeal No. 11 of 81 S issued at the session of June 7, 2011 (unpublished), Appeal No. 8522 of 80 S issued at the session of May 7, 2011 and published in Technical Office letter No. 62, page 211, rule No. 36, Appeal No. 2169 of 79 issued at the session of January 19, 2011 (unpublished)

The Court of Cassation ruled that: [Article 34, 35 of the Criminal Procedure Law has allowed the sheriff to make judicial arrests in cases of flagrante delicto punishable by imprisonment for a period of more than three months to arrest the present accused who has sufficient evidence to charge him. If he is not present, the sheriff may issue an order to arrest him and bring him. Article 46 of the same law also empowered him to search the accused in cases where he may be legally arrested. It was legally established that flagrante delicto is a characteristic of the crime itself and not a person who committed it, which allows the sheriff who witnessed its occurrence to arrest anyone who carries out evidence of his contribution to it and to be searched without permission from the Public Prosecution. Although the assessment of the circumstances that clothed the crime and surrounded it at the time of its commission and its sufficiency to carry out the case of flagrante delicto is entrusted to the trial court, but this is subject to the fact that the reasons and considerations on which the court bases its assessment are valid to lead to the result it reached, as it was, and what was stated by the judgment - whether in its response to the plea of nullity of arrest and search or in its statement of the fact of the case - is not included in it This indicates that the crime was witnessed in one of the cases of flagrante delicto described exclusively in Article 30 of the Criminal Procedure Law, and what was stated by the contested judgment - according to the above context - of the officer watching the appellant hand over a bag to the other accused - who is authorized to search him - is available in the case of flagrante delicto that allows the judicial officer to arrest him is not correct in law, as the text of the first paragraph of Article 41 of the 1971 Constitution - applicable to the incident - conclusively indicates that in other than the cases of flagrante delicto, no restriction on personal freedom may be placed except with the permission of the competent judge or the Public Prosecution. When this was done, the arrest of the appellant occurred in a state not in flagrante delicto of the crime, and therefore what happened to him is a false arrest, and if the contested judgment violated this consideration and the validity of this measure, it is wrongly flawed in the application of the law, which requires its reversal] Appeal No. 6 of the year 81 issued in the hearing of December 11, 2011 (unpublished).

See: Appeal No. 18565 of 84 S issued at the 11th session of April 2016 and published in the Technical Office's letter No. 67, page No. 433, rule No. 50, Appeal No. 21782 of 74 S issued at the 16th session of October 2012 and published in the Technical Office's letter No. 63, page No. 511, rule No. 87.

([301]) Appeal No. 25868 of 84 S issued on June 6, 2015 (unpublished).

([302]) Article 9 of the Universal Declaration, article 9 (1) of the International Covenant, article 37 (b) of the Convention on the Rights of the Child, article 16 (4) of the Migrant Workers Convention, article 6 of the African Charter, article 7 (3) of the American Convention, article 14 (2) of the Arab Charter, article 5 (1) of the European Convention, article

This prohibition is a necessary condition that arises automatically from the right to liberty and applies to deprivation of liberty in all contexts, and not only in relation to criminal charges as it applies to all forms of deprivation of liberty, including house arrest [303].

The Working Group on Arbitrary Detention, the group of experts empowered to investigate cases of arbitrary deprivation of liberty, has clarified that deprivation of liberty is arbitrary, inter alia, in the following cases:[304].

Arrest or detention without legal basis. Furthermore, arrest or detention permitted by national law may be arbitrary under international standards. Examples include the law being vaguely worded or too broad [305].

or inconsistent with other human rights such as the right to freedom of expression, assembly or belief,[306].

or the right to be free from discrimination [307].

Detention can also become arbitrary as a result of a violation of the detainee's right to a fair trial [308].

Likewise, enforced disappearance and secret detention are arbitrary in themselves [309].

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55 (1) (d) of the Rome Statute; section M (1) (b) of the Principles of Fair Trial in Africa; and principle 3 (1) of the Principles Relating to Persons Deprived of Liberty in the Americas; see article 25 of the American Declaration.

General [303]Comment 8 of the Human Rights Committee, §1 , Yaklimova v. Turkmenistan, Human Rights Committee, 2006/2 / §7 (2009) UN Doc. CCPR/C/96/D/1460..

([304]) Fact Sheet No. 26 of the Working Group on Arbitrary Detention, Section 5(a)- (b).

[305]See Concluding Observations of the Human Rights Committee: Ethiopia,.UN Doc .§15 (2011) CCPR/C/ETH/CO/1.

([306]) Opinion No. 25/2004 of the Working Group on Arbitrary Detention (Al-Faleh et al. v. Saudi Arabia),UN Doc. E/CN.4/2006/7/Add.1 pp. 16 - §20 - §13 ,20; Working Group on Arbitrary Detention, §94- §93 (2000) UN Doc. E/CN.4/2001/14; Article 19 v. Eritrea (03/275), African Commission, Annual Report 22 § 108- §93 (2007); Concluding Observations of the Human Rights Committee: Canada, / UN Doc. CCPR/C/can §2 (2005) CO/5 , Uzbekistan, §22 (2005) UN Doc. CCPR/CO/83/UZB; see Jung et al. v. Republic of Korea, Human Rights Committee,. UN Doc .4/§7 (2010) CCPR/C/98/D/1593-1603/2007..

A [307]et al. v. United Kingdom (3455/05), Grand Chamber of the European Court § 190- §161 (2009) (Nationality); see Concluding Observations of the Committee on the Elimination of Racial Discrimination: Ukraine, 18 / UN Doc. A/56 (Suppl.) §373 (2001 , Ethiopia, 2007) UN Doc. CERD/C/ETH/CO/15) §19 , Turkmenistan, §5 (2002) UN Doc. CERD/C/60/CO15 (Doctrine), India, §14 (2007) UN Doc. CERD/C/IND/CO/19 (Dismissed), General Recommendation 31 of the Committee on the Elimination of Racial Discrimination, §20.

([308]) Working Group on Arbitrary Detention: Circulation No. UN Doc. A/ ,9 §38 (2012) 44/HRC/22 (c), Opinion 14/2006 of the Working Group on Arbitrary Detention, §15- §9 (2006) UN Doc. A/HRC/4/40/Add.1; Article 19 v. Eritrea (275/03) African Commission, Annual Report 22 § 108- §93 (2007)..

[309]See articles 2 and 17 (1) of the Convention on Enforced Disappearances.

Joint Study of UN Mechanisms on Secret Detention, UN Doc §21- §18 (2010) 42/A/HRC/13; Opinion No./142009 of the Working Group on Arbitrary Detention (The Gambia), 2010) UN Doc. A/HRC/13/30/Add.1) pp. 187 - §22- §19 191; Salem Saad Ali Bashasha v. Libyan Arab Jamahiriya, Human Rights Committee, 2008/2010) UN Doc. CCPR/C/100/D/1776) 6/§7; European Court: Chitaev and Chitaev v. Russia (59334 / 00), §173-§172 (2007) , Al-Masri v. The Former Yugoslav Republic of Macedonia (39630/ 09) Grand Chamber § 241- §230 (2012).

The United Nations General Assembly has noted with concern the detention of persons suspected of having committed terrorist acts without a legal basis or respect for due process guarantees and has opposed detention that results in depriving persons of the protection of the law [310].

The Working Group on Arbitrary Detention concluded that the detention of individuals arrested in different countries in the context of the CIA rendition program (in the aftermath of the September 11, 2001 attacks in the United States of America) was arbitrary, as they were held incommunicado for prolonged periods in secret places that included various "black sites", without access to courts or lawyers, without being charged or prosecuted, and without informing their families of their whereabouts or allowing them to contact them (although some of them were later charged) [311].

The "preventive detention" of children and women who survived after being targeted with "honor crimes", domestic or other types of violence, or from being trafficked as human beings, without the consent of these children and women and without judicial supervision, is considered arbitrary detention and discrimination[312].

The Working Group on Arbitrary Detention has concluded that the detention of individuals under laws criminalizing private homosexual activities is arbitrary and that such laws constitute a violation of the right to private and family life, and of the prohibition on discrimination [313].

The Human Rights Committee has clarified that the term "arbitrariness " in article 9 (1) of the International Covenant on Civil and Political Rights must be interpreted broadly to include elements of inappropriateness, injustice and unpredictability of action [314].

The Inter-American Commission on Human Rights concluded that the arrest of one of the generals for allegedly planning a military coup, and under a memorandum issued by a military court in which no details or evidence of the alleged facts were provided, constituted an abuse of power [315].

([310]) Resolution 63/185 of the United Nations General Assembly, Al-Dibaha §8 and Working Paragraph 13-14.

Opinion [311]No. 29/2006 of the Working Group on Secret Detention (USA), 2006) UN Doc. A/HRC/4/40/Add.1) pp. 103-110 §12§ and 21-22..

([312]) See Rule 59 of the Bangkok Rules.

See Special Rapporteur on the independence of judges and lawyers, UN Doc §70 (2011) A/66/289; Special Rapporteur on violence against women, UN §123-§122 (2011) Doc. ECN.4/1998/54 and/73/2001 / UN Doc. E/CN.4 §27 (2001) Add.2; Working Group on Secret Detention, .UN Doc § 66- § 65 (2002) E/CN.4/2003/8; Concluding comments of the Committee on the Elimination of Discrimination against Women (CEDAW): Jordan, 2007) UN Doc. CEDAW/C/JOR/CO/4) §26; see Special Rapporteur on Torture, Jordan, 33 / UN Doc. A/HRC/4 .§39 (2007) Add.3.

Opinion [313]No. 7/2002 of the Working Group on Secret Detention (Egypt), 2002) UN Doc. E/CN.4/2003/Add.1) pp. 68 - §12§ 73, Opinion No. 2006/22 (Cameroon), 2007 (UN Doc. A/HRC/4/40/Add.1), pp. 91-94.

([314]) Commission on Human Rights: Mukong v. Cameroon, / UN Doc. CCPR 8/§ 9 (1994) C/51/D/458/1991; Fongam Gorji-Dinka v. Cameroon, 1/§5 (1994) UN Doc. CCPR/C/83/D/1134/2002; Marinich v. Belarus, 2006/4/ §10 (2010) UN Doc. CCPR/C/99/D/1502; Article 19 v. Eritrea (275/03) African Commission, Annual Report 22 §93 (2007)..

([315]) Gallardo Rodriguez v. Mexico (11).430 , 96 / Report 43), American Commission, §71-§64 (1997), 115.

The European Court also concluded that the arrest and detention of persons for political or commercial reasons, or to exert pressure on a person to withdraw an application submitted to the Court, constitute arbitrary detention [316].

The Working Group on Arbitrary Detention explained that the administrative detention of foreign nationals, as well as asylum seekers, due to their non-compliance with immigration legislation, is not per se prohibited in international law, but it can amount to arbitrary detention if it is not necessary in the circumstances of the individual case under consideration. The Working Group considers the criminalization of illegal entry into a country "exceeds the legitimate interest of States in controlling and regulating migration, and leads to unnecessary detention" [317].

Mass arrests are often arbitrary under international standards, including in the context of peaceful protest[318].

This also applies to prolonged detention without charge or trial[319].

as well as on the detention of relatives of a person suspected of having committed a criminal offense to put pressure on him [320].

Detention that begins lawfully can turn into illegal or arbitrary detention. For example, the detention of persons who were lawfully arrested but continued to be detained after the expiry of the period permitted by law, or after a judicial order for their release, is considered arbitrary [321].

The African Commission and other human rights bodies have concluded that the detention of individuals after they have been acquitted or pardoned, or have exceeded their sentence, constitutes arbitrary detention[322].

([316]) European Court: Kosinski v. Russia (70276 / 01), (2004) §78-§70 , Sibutari v. Moldova (35615 / 06), §53-§46 (2007).

([317]) Working Group on Arbitrary Detention, 4/ UN Doc. A/HRC/7 §2008§46 (and 53; see Special Rapporteur on migrants, UN Doc §14-§13 (2012) A/HRC/20/24 and 70.

Concluding [318]observations of the Human Rights Committee: Canada, / UN Doc. CCPR/C .§20 (2005) CAN/CO/5.

([319]) Decision No. 2/11 of the American Committee on the Situation of Detainees at Guantánamo Bay, United States, 02-MC 259; Jeddah v. United Kingdom (08/27021), Grand Chamber of the European Court §110-§97 (2011).

Concluding [320]observations of the Committee against Torture: Yemen, UN Doc §14 (2010) CAT/C/YEM/CO/2/Rev/1; Special Rapporteur on human rights and counter-terrorism, 211 / §31§ (2009) UN Doc. A/64 and 53 (g).

Opinion [321]No. 27/2008 of the Committee on Arbitrary Detention (Egypt), UN Doc. A/HRC/13/30/Add.1 at 78 §83-§81 (2009), Fact Sheet No. 26 of the Committee on Arbitrary Detention, Section 4(b) (a) and Annex §8 ,4 (a); Asanidze v. Georgia (71503 / 01), Grand Chamber of the European Court §173 (2004).

([322]) African Commission: Constitutional Rights Project and Civil Liberties Organization v. Nigeria (148/96), Annual Report 13 §16- § 12 (1999), Annette Bagnaul (on behalf of Abdoulaye Mazou) v. Cameroon (39).90), Annual Report 10 (1997); Concluding Observations of the Committee against Torture: Yemen: UN Doc §6 (2004) 4/31/CAT/C/CR/3 (h); Fact Sheet No. 26 of the Committee on Arbitrary Detention, Section 4(b) (a) and Annex 4, pp. 8 ,21 (a).

When the European Court, the Inter-American Court and the Commission examine the legality of an arrest or detention, they examine, inter alia, the applicability to them of the principles of necessity and proportionality [323].

The European Court found that the targeting of a human rights activist while traveling to follow an opposition march, on an exceptional basis, because of the presence of his name on a list of "potential extremists", and his detention for 45 minutes on suspicion of transporting extremist literature despite the fact that he was not carrying any luggage with him, constituted arbitrary detention [324.]

The prohibition on arbitrary detention is a principle of customary international law and may not be made subject to treaty-specific reservations, and must be respected at all times, including in time of war and other public emergencies. The Working Group on Arbitrary Detention has confirmed that this prohibition constitutes a peremptory norm of international law [325].

3. Which bodies are permitted by law to deprive a person of his or her liberty?

No individual may be arrested, detained or imprisoned except by officials competent to perform those tasks [326].

This principle explicitly prohibits the common custom in some countries where some branches of the security forces carry out arrests and detentions of individuals; although they are not entitled to judicial enforcement authority [327].

This requirement also means that the law should clarify the nature of any powers delegated by the state to unofficial individuals or private security companies to deprive persons of their liberty [328].

Where the state that entrusts law enforcement functions to a private security company is jointly responsible for the actions of employees working in this company [329].

([323]) European Court, Saadi v. United Kingdom (13229 / 03), Grand Chamber §70- §67 (2008), Ladent v. Poland (11036 / 03), §55- §54 (2008); Cervilon-García et al. v. Honduras, Inter-American Court (2006) §96- §86 (special §90); Pirano Basso v. Uruguay (report 86/09), U.S. Commission §100- §93 (2009).

([324]) Shimovolos v. Russia (30194 / 09), European Court (2011) .§57- §56.

([325]) Human Rights Committee General Comment 24, §8 , Human Rights Committee General Comment §11 ,29; deliberation No. 9 of the Working Group on Arbitrary Detention, §75- §37 (2012) UN Doc. A/HRC/22/44.

([326]) Article 17 (2) (b) of the Convention on Enforced Disappearances, Principle 2 of the Body of Principles, Article 12 of the Declaration on Enforced Disappearances, and Section M (1) (c-d) and(g) of the Principles of Fair Trial in Africa.

Special [327]Rapporteur on human rights and counter-terrorism, UN Doc. 2010 (A/HRC/14/46), p. 24 , practice 27; see Concluding Observations of the Committee against Torture: Yemen, 2010 (UN Doc. CAT/C/YEM/CO/2/Rev.1 §13 , Uganda, §6§ ,(2005) CAT/C/CR/34/UGA (d) and 10 (h).

[328]See UN Group of Experts on Civilian Private Security Services, §8§ (2011) UN Doc. UNODC/CCPCJ/EG.5/2011/CPR.1 (c), 16 and 18.

([329]) See Rule 88 of the European Prison Rules.

This applies to the actions of the private security company when it exceeds the scope of the authority entrusted to it or violates the instructions of the state [330].

Authorities that arrest, keep in custody or investigate individuals may not exceed the powers granted to them by law, and in the exercise of their powers they must be subject to control by the judiciary or other authority [331].

The Special Rapporteur on human rights and counter-terrorism has warned that the legal powers that allow intelligence services to arrest or detain persons should be limited to cases in which it is reasonably suspected that the individual to be arrested has committed or is about to commit a crime. Laws should not allow intelligence services to detain individuals for the purpose of gathering information only. Any person arrested by the security services has the right to request a legal review of the legality of his detention [332].

The identity of those who carry out arrests or deprive people of their freedom must be clearly visible, such as wearing badges bearing their names or numbers clearly [333].

Third: Guarantees of Arrest

The legislator stipulated several guarantees to prevent arbitrary arrest:

I. It is prohibited to arrest or imprison any person except by order of the legally competent authorities

Article 40 of the Criminal Procedure Law stipulates that: "No person may be arrested or imprisoned except by order of the legally competent authorities. He must also be treated in a manner that preserves human dignity, and he may not be harmed physically or morally."

In this regard, the Court of Cassation ruled that: [Whereas the principle prescribed under Article 40 of the Criminal Procedure Law is that no person may be arrested or imprisoned except by order of the legally competent authorities, and Article 126 of the aforementioned Law - which applies to the investigation conducted by the Public Prosecution - allows the investigating authority in all articles to issue a warrant to appear or arrest and bring the accused, and Article 127 of the same Law required that every arrest warrant issued by the investigating authority include the name of the accused, his surname, industry, place of residence, the charge attributed to him, the date of the order, the signature of the person who issued it, and the official seal, and this meant that the request to the police from the Public Prosecution to search for and investigate the offender -

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Cabal [330]and Pasini Bertrand v. Australia, Human Rights Committee, UN Doc 2/§7 (2003) 2001/CCPR/C/D/1020; Articles 5 and 7 of the Decisions on Responsibility of States for Internationally Wrongful Acts, International Law Commission (2001) (recommended to Governments by UN General Assembly resolution 19/65); Committee against Torture, Commentary §15 ,2.

([331]) Principle 9 of the Set of Principles.

Special [332]Rapporteur on human rights and counter-terrorism, UN Doc 2010 (A/HRC/14/46), p. 24 , practice 28.

([333]) Principle 4 of the Council of Europe Guidelines on the Eradication of Impunity.

Christofi v. Bulgaria (42697 / 05), European Court (2011) §93-§92.

unknown - and seize him is not considered a valid arrest warrant, as the text of Article 127 of the Criminal Procedure Law explicitly stated that the person of the accused who was issued with an arrest warrant must be identified and brought by his legal owner] [334].

II. Prohibition of confinement of any human being except in prisons designated for this purpose

Every person deprived of liberty has the right to be detained in conditions consistent with human dignity and no one shall be subjected to torture or other ill-treatment, under any circumstances, and conditions of detention that unreasonably impede the defendants' chances of effectively preparing their defence constitute a violation of the right to a fair trial.

Article 41 of the Criminal Procedure Law stipulates that: "It is not permissible to imprison any person except in the prisons designated for that purpose, and it is not permissible for the warden of any prison to accept any person in it except by virtue of an order signed by the competent authority, and not to keep him after the period specified in this order."

It is prohibited to place any person in community reform and rehabilitation centers (prisons) without a written order signed by the competent authorities. Article 5 of the Egyptian Law on the Organization of Community Reform and Rehabilitation Centers affirmed the need for a written order signed by the competent authorities to place the person in the reform center designated for that purpose. It is also prohibited to place any person in the labor institution for repeat offenders except by a written order signed by the legally competent authorities and remains in it until the Minister of Justice orders his release based on the proposal of the institution's management and the approval of the Public Prosecution. The court enforcement clerk must send adult convicts with their implementation forms to the reform centers specified for the implementation of the punishment according to the different type and degree of punishment[335].

The director of the reform center or the employee appointed for this purpose shall receive a copy of the deposit order, after he signs the original receipt, provided that the original is returned to those who brought the inmate and a signed copy is kept by those who issued the order in the reform center.

([334]) Appeal No. 1457 of 48 BC issued at the session of 31 December 1978 and published in the first part of the book of the Technical Office No. 29 page No. 993 rule No. 206.

It ruled that: [The request addressed to the Center by the prosecutor to ask the accused and make a fish and an analogy to him is not considered a warrant of arrest, nor a summons, and it is not valid to justify the validity of arrest and search because of a violation of the text of Article 40 of the Code of Criminal Procedure] Appeal No. 1199 of 24 S issued at the session of December 13, 1954 and published in the first part of the Technical Office's book No. 6, page No. 292, rule No. 89.

([335]) Articles No. 5 and 6 of the Law on the Organization of Reform and Community Rehabilitation Centers, Articles No. 2 and 3 of the Internal Regulations of the Reform and Community Rehabilitation Centers, Article No. 3 of the Internal Regulations of the Military Reform Centers, Article No. 1047 of the written, financial and administrative instructions of the Public Prosecution, and Articles No. 2 and 3 of the Presidential Decree No. 82 of 1984.

The competent prosecution officer shall, upon placing the accused in the reform center on the basis of an order issued for his detention, hand over a copy of the detention order to the director of the reform center or the competent employee appointed for this purpose after signing the original receipt, and it shall be taken into account that such copy shall be signed by the person who issued the order and stamped with the seal of the emblem of the Republic [336].

The Attorney General and his agents in their jurisdictions have the right to enter all places of correction centers at any time to verify that there is no illegal inmate [337].

As for the places designated for the detention of detainees specified by a decision of the Minister of Interior, it is not permissible to enter them except for those assigned by the Attorney General, such as public attorneys, heads of partial prosecutions in them, or their director, to notify the Attorney General through public attorneys or heads of general prosecutions of what is in their departments from these places [338].

On the other hand, all international conventions have prohibited the admission of any person to prison without a legitimate detention order, and it is prohibited to keep any person detained pending investigation or trial except on the basis of a written order issued by a competent authority [339].

It is also prohibited to receive any juvenile in a detention institution without a valid detention order issued by a judicial, administrative or any other public authority, provided that the details of the detention order are recorded in the records of the institution immediately, and no juvenile may be detained in any institution or facility without records [340].

Therefore, the detained person accused of committing a criminal charge must be brought before a judicial authority or any other competent authority promptly after his arrest, and that authority must decide on the legality and necessity of his detention without delay, and the detained person has the right to make a statement about the treatment he received during his detention [341].

The International Convention for the Protection of All Persons from Enforced Disappearance also prohibited the subjection of any person to enforced disappearance, and prohibited invoking any

([336]) Article 1044 of the written, financial and administrative instructions of the Public Prosecution.

([337]) Article 85 of the Law Regulating Correction and Community Rehabilitation Centers, as amended by Law No. 106 of 2015 and Law No. 14 of 2022.

([338]) Article 1750 of the Judicial Instructions of the Public Prosecution.

([339]) The first paragraph of Rule 7 of the Nelson Mandela Rules, Principles Nos. 2, 4 and 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

([340]) Rule No. 20 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

([341]) Principle No. 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

exceptional circumstances, whether a state of war or the threat of war, internal political instability, or any other state of exception, to justify enforced disappearance [342].

Every prisoner has the right to inform his family immediately of his arrest or transfer to another prison [343].

It is prohibited to use pretrial detention of juveniles - pre-trial detention - except as a last resort and for the shortest possible period of time, and it is replaced whenever it is secured by alternative measures such as close monitoring, intensive care or placement with a family or one of the institutions or educational homes, provided that the detained juvenile enjoys all the rights and guarantees mandated by the Standard Minimum Rules for the Treatment of Prisoners [344].

provided that each case in which an accused person has occurred shall be heard expeditiously without any unnecessary delay [345].

Following the arrest of the juvenile, his parents or guardian must be notified of this immediately, and in the event that immediate notification is not possible, the notification must be within the most possible period of time after his arrest, provided that a judge or a competent official considers without delay the order for his release [346].

The Constitution stipulates that no one may be arrested, searched, imprisoned, or his freedom restricted in any way except by a reasoned judicial order necessitated by the investigation [347].

The rulings of the Supreme Constitutional Court also recognized the right of anyone who was arrested or detained to communicate with others to inform him of what happened or to use it in the manner regulated by law, which means guaranteeing his right to obtain legal advice requested by the lawyers of his choice, and ruled that: [The Constitution empowered... Whoever is arrested or detained has the right to contact others to inform him of what has happened or to use it in the manner regulated by law, which means guaranteeing his right to obtain legal advice requested by the lawyers of his choice, which is necessary advice that provides a fence of trust and confidence, and provides him with the effective assistance required to remove suspicions pending against him, and to face the consequences of the restrictions imposed by the public authority on his personal freedom, with which it is not permissible to separate him from his lawyer in a way that offends his position, whether during the preliminary investigation or before it] [348].

([342]) Article 1 of the International Convention for the Protection of All Persons from Enforced Disappearance, and Article 7 of the Declaration on the Protection of All Persons from Enforced Disappearance.

([343]) Paragraph No. 3 of rule No. 44 of the Standard Minimum Rules for the Treatment of Prisoners.

([344]) Rule No. 13 of the Beijing Rules, Article No. 17 of the African Charter on the Rights and Welfare of the Child.

([345]) Rule No. 20 of the Beijing Rules.

([346]) Rule No. 10 of the Beijing Rules.

([347]) Article 54 of the Constitution.

([348]) Case No. 6 of 13 S, issued at the session of May 16, 1992, and published in the first part of the book of the Technical Office No. 5, rule No. 37, page No. 344.

The International Covenant on Civil and Political Rights also prohibits the arrest, detention or deprivation of liberty of any person except on the grounds and in accordance with the procedures stipulated by law, and must be tried within a reasonable time or released, and that pretrial detention is not the general rule for all those awaiting trial, and any person arrested at the time of arrest must be informed of this, and promptly informed of any charge against him [349].

Any person arrested at the time of arrest must be informed of the reason for this, and promptly informed of any charge against him [350].

Any person who is arrested, detained, imprisoned or accused of committing a criminal offence must be informed of his right to be represented and assisted by a lawyer of his choice [351].

Every person who does not have a lawyer has the right to appoint an experienced and competent lawyer consistent with the nature of the crime with which he is accused to provide him with effective legal assistance, without paying for this service if they do not have sufficient resources for it [352].

It is also prohibited to keep any detained person without giving him a real opportunity to make his statement as soon as possible before a judicial or other authority, and he has the right to defend himself or obtain the assistance of a lawyer, and provide the detained person and his lawyer with all information about the detention order and its reasons, with the right to review the continuation of detention before the judicial or any other authority [353].

The detained person or his lawyer has the right at any time to file a simple and urgent lawsuit in accordance with domestic law before a judicial authority or any other authority to challenge the legality of his detention, with the aim of obtaining an order for his release without delay, if his detention is illegal, provided that the lawsuit is free of any costs for those who do not have sufficient means, and the authority detaining the person is obligated to bring him without undue delay before the authority that undertakes the review[354].

The juvenile also has the right to be represented by his legal counsel for the duration of the judicial proceedings, and he has the right to request that the court assign him a lawyer free of charge, and his parents or guardian have the right to participate in all judicial proceedings, and the competent

([349]) Article 9 of the International Covenant on Civil and Political Rights, Principle No. 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

([350]) Principle No. 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

([351]) Principle No. 5 of the Basic Principles on the Role of Lawyers.

([352]) Principle No. 6 of the Basic Principles on the Role of Lawyers..

([353]) Principle No. 11 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and Principle No. 39 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

([354]) Principle No. 32 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Articles No. 14, 16 of the Arab Charter on Human Rights.

authority may request their presence for the benefit of the juvenile, unless the competent authority refuses their participation in the proceedings if there are necessary reasons to exclude them in favor of the juvenile[355].

No order or instruction of any public authority, civilian, military or otherwise, may be invoked to justify an act of enforced disappearance. Every person who receives such orders or instructions shall have the right and duty not to obey them [356].

The International Convention for the Protection of All Persons from Enforced Disappearance defines it as "arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law"[357].

The Declaration on the Protection of All Persons from Enforced Disappearance considered that any act of enforced disappearance is a crime against human dignity, and it is a serious and flagrant violation of the human rights and fundamental freedoms contained in the Universal Declaration of Human Rights. Enforced disappearance deprives the person subjected to it of legal protection, and inflicts severe suffering on him and his family, in violation of the rules of international law that guarantee everyone the right to liberty and security and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, and violates his right to life or constitutes a serious threat to him [358].

Any act of enforced disappearance is considered a crime that must be punished with appropriate penalties. Criminal responsibility for the act of enforced disappearance shall be borne by whoever commits the crime himself, orders, recommends, conspires, or participates in its commission. No orders or instructions issued by public, civil, military, or other authorities may be invoked to exempt from responsibility for the commission of that crime, with the possibility of providing in national legislation extenuating circumstances for anyone who, after participating in acts of enforced disappearance, facilitates the appearance of the victim alive, or voluntarily provides information on cases of enforced disappearance, taking into account that the perpetrators of the crime do not benefit from any special amnesty law or any similar procedure that may result in their exemption from any criminal trial or punishment.

([355]) Rule No. 15 of the Beijing Rules.

([356]) Article 6 of the Declaration on the Protection of All Persons from Enforced Disappearance, and Article 6 of the International Convention for the Protection of All Persons from Enforced Disappearance.

([357]) Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance.

([358]) Article 1 of the Declaration on the Protection of All Persons from Enforced Disappearance.

Every act of enforced disappearance is an ongoing crime whose perpetrator continues to conceal the fate and whereabouts of the victim of disappearance [359].

In addition to the civil responsibility of the perpetrators of enforced disappearance, the state also bears civil responsibility for the authorities that organized, approved or condoned enforced disappearances, with the victims of enforced disappearance and their families being compensated with appropriate compensation, including the means for their rehabilitation to the fullest extent possible [360].

Each State shall investigate complaints that a person has been subjected to enforced disappearance, promptly and impartially examine that allegation and take appropriate measures to ensure the protection of the complainant, witnesses, relatives and defenders of the disappeared.[361]

Each state must provide access to every person who is proven to have a legitimate interest in obtaining information about the authority that decided to deprive the person of his liberty, as well as the date, time and place of deprivation of liberty and entry to the place of deprivation of liberty; the authority that monitors the deprivation of liberty; the whereabouts of the person deprived of liberty, including in the event of transfer to another place of detention, the place to which he was transferred and the authority responsible for his transfer; the date, time and place of release; data on the health status of the person deprived of liberty; and access to the circumstances and causes of death and the destination of the remains of the deceased in the event of the death of the person deprived of liberty, as well as the protection of every person proven to have a legitimate interest from any ill-treatment, intimidation or punishment for seeking information about a person deprived of liberty[362].

It is prohibited to restrict the right to obtain information related to the person deprived of his liberty, while guaranteeing the right to a prompt and effective judicial appeal to obtain all the prescribed information at the earliest [363].

Each State must take the necessary measures to prevent and punish the refusal to provide information on a case of deprivation of liberty, or the provision of incorrect information, at a time when the legal requirements for providing such information are met [364].

([359]) Articles 4, 17 and 18 of the Declaration on the Protection of All Persons from Enforced Disappearance, and article 6 of the International Convention for the Protection of All Persons from Enforced Disappearance.

([360]) Articles 5 and 19 of the Declaration on the Protection of All Persons from Enforced Disappearance,.

([361]) Articles 12, 17 of the International Convention for the Protection of All Persons from Enforced Disappearance, and articles 13, 12 of the Declaration on the Protection of All Persons from Enforced Disappearance.

([362]) Article 18 of the International Convention for the Protection of All Persons from Enforced Disappearance.

([363]) Article 20 of the International Convention for the Protection of All Persons from Enforced Disappearance, Article 9 of the Declaration on the Protection of All Persons from Enforced Disappearance.

([364]) Article 22 of the International Convention for the Protection of All Persons from Enforced Disappearance.

Any person who has been detained without observing the established rules must be released immediately, and the state must take the necessary measures to ensure that he has already been released, and to ensure his physical safety and his full ability to exercise his rights upon release [365].

Accordingly, the detention or confinement of a person in places other than those designated for that purpose or without access to information about that detention or detention is a form of internationally criminalized enforced disappearance. The detention of any person must be in places specified by law, and this must be in a place known to his person as well as to his relatives.

a. The right to humane conditions of detention and imprisonment

States must ensure that all persons deprived of their liberty are treated with respect for the inherent dignity of the human person and are not subjected to torture or other cruel, inhuman or degrading treatment or punishment

Except for the proportionate restrictions required by their deprivation of liberty, the human rights of detainees and prisoners must be respected and guaranteed[366].

Any restrictions on the rights of detainees and prisoners - such as the right to privacy and family life, and to freedom of expression or the public practice of religious teachings or other beliefs - must be provided for in law and must be both necessary and proportionate in order to achieve a legitimate purpose under international standards [367].

The duties of States to guarantee the rights of persons deprived of their liberty apply to all detainees and prisoners, without discrimination as they apply regardless of nationality or immigration status, and regardless of whether a person is detained within the territory of his State or elsewhere under the effective control of that State [368].

([365]) Article 21 of the International Convention for the Protection of All Persons from Enforced Disappearance, Article 11 of the Declaration on the Protection of All Persons from Enforced Disappearance.

([366]) Principle 5 of the Basic Principles for the Treatment of Prisoners, Principle 8 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 2 of the European Prison Rules.

[367]See General Comment 34 of the Human Rights Committee, § §18 and 21-36, and General Comment 22 of the Human Rights Committee, §8.

See Principles 8 and 15-21 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 3 of the European Prison Rules.

General [368]Comment 15 of the Human Rights Committee.

General Comment 31 of the Human Rights Committee, §10; General Comment 2 of the Committee against Torture, §16; Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory, Advisory Opinion of the International Organization of Justice (2004), §111; see Concluding Observations of the Committee against Torture: United States of America, §15 (2006) UN Doc. CAT/C/USA/CO/2; Al-Sakini v. United Kingdom (55721) / 07), Grand Chamber of the European Court 149 § (2011); Report of the Inter-American Commission on Terrorism and Human Rights (2002), Section 2(b) §44.

States' duties to ensure the rights of persons deprived of their liberty also apply in detention facilities and prisons owned by private companies [369].

States remain responsible, even when employees of private security companies act beyond the authority delegated to them or contrary to their instructions [370].

Police officers and staff working in detention facilities and prisons must receive training on international human rights standards, including those relating to the use of force and physical control. States must ensure that the prohibition of torture and other ill-treatment is included in training programs and in their instructions to everyone involved in the detention, interrogation or handling of detainees [371].

Law enforcement officials and others, including health professionals, lawyers and judges, should be trained to recognize signs of torture and other ill-treatment and to prevent all forms of ill-treatment [372].

They should also be specially trained to recognize and meet the special needs of all groups of persons, such as foreign nationals, women, children, persons with disabilities and persons with mental disorders [373].

All places where persons are deprived of their liberty (including facilities under special administration) must be subject to monitoring by bodies independent of the detention authority [374].

([369]) See Rule 88 of the European Prison Rules.

General [370]Comment 2 of the Committee against Torture, §17; Articles 5 and 7 of the Articles on State Responsibility for Internationally Wrongful Acts, of the International Law Commission (2001) Recommended to Governments by Resolution 65/19 of the United Nations General Assembly; Cabal and Pasini Bertrand v. Australia, Commission on Human Rights, 2/ §7 (2003) UN Doc. CCPR/C/87/D/1020/2001, Concluding observations of the Human Rights Committee: New Zealand, §11 (2010) UN Doc. CCPR/C/NZL/CO/5.

([371]) General Comment 20 of the Human Rights Committee, §10; Second Report of the Committee for the Prevention of Torture, .CPT/Inf92 (3), §59.

General Comment[372] 2 of the Committee against Torture, §25, Concluding Observations of the Committee against Torture: Burundi, 2006) UN Doc. CAT/C/BDI/CO/1) §16, Estonia, 5/ §6 (2002) UN Doc. CAT/C/CR/29 (b)..

([373]) Articles 10 and 11 of the Convention against Torture, article 7 of the Inter-American Convention against Torture, rules 33-35 of the Bangkok Rules, guidelines 45-46 of the Robben Island Guidelines, principle 20 of the Principles on All Persons Deprived of their Liberty in the Americas, and rules 66 and 81 of the European Prison Rules.

([374]) General Comment 2 of the Committee against Torture, §13; Resolution 21/4 of the Human Rights Council 18 § (2012) (a).

Among others, Article 17 (2) (e) of the Convention on Enforced Disappearances, the Optional Protocol to the Convention against Torture, Article 2 of the European Convention for the Prevention of Torture, Principle 29 of the Body of Principles, Guidelines 41-42 of the Robben Island Guidelines, Section M(8) (a) of the Principles of Fair Trial in Africa, Principle 24 of the Principles Relating to All Persons Deprived of their Liberty in the Americas, and Rules 9 and 92-93 of the European Prison Rules.

Visits and inspections should be regular and unrestricted, and observers should be able to meet all inmates in person and face-to-face, and to examine the records kept [375].

Independent mechanisms must be established that can be contacted for individuals to complain about the treatment they receive while deprived of their liberty, and national law should recognize their right to do so[376].

Conditions of detention shall not unreasonably adversely affect the ability of the accused to prepare their defence or to present such defence in court.

All persons deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person [377].

The right to humane treatment is a right that may not be expressly restricted under the American Convention and the Arab Charter [378].

This right is a principle of public international law: that is, it applies at all times, in all circumstances, including in states of emergency [379].

The duty to treat detainees with humanity and respect for their dignity is a rule that applies everywhere in the world and in a comprehensive manner, does not depend on the availability of material resources, and must be applied without discrimination [380].

The Human Rights Committee has pointed out the close link between the duty to treat humanely and the prohibition of cruel, inhuman and degrading treatment, enshrined in articles 10 and 7 of the International Covenant, respectively [381].

([375]) Articles 12, 14 - 15 and 19 - 21 of the articles of the Optional Protocol to the Convention against Torture, article 8 of the European Convention for the Prevention of Torture, section M(8) of the principles of fair trial in Africa, and principle 24 of the principles relating to persons deprived of their liberty in the Americas.

SPT: Honduras, / UN Doc. CAT/OP .26- § §25 (2013) HND/3.

Principle [376]33 of the Set of Principles, Guidelines 17 and 40 of the Robben Island Guidelines, Section M(7) (g) - (h) of the Fair Trial Principles in Africa, Principle 5 of the Principles Relating to Persons Deprived of their Liberty in the Americas, Rule 70 of the European Prison Rules, and Rule 44 of the European Prison Rules.

HRC general comment 20, §14; cat general comment 2, §13; HRC resolution 21/4 18 § (2012) (a); HRC concluding observations: Kenya, / UN Doc. CCPR/Co/83 §18 (2005) Ken; Mikheev v. Russia (77617) / 01), European Court. §140 (2006).

([377]) Article 10 of the International Covenant, Article 17 (1) of the Migrant Workers Convention, Article 5 of the African Charter, Article 5 of the American Convention, Article 20 (1) of the Arab Charter, Principle 1 of the Basic Principles for the Treatment of Prisoners, Principle 1 of the Body of Principles, Section M(7) of the Principles of Fair Trial in Africa, Article 25 of the American Declaration, Principle 1 of the Principles Relating to All Persons Deprived of their Liberty in the Americas, and Rules 1 and 27/1 of the European Prison Rules.

([378]) Article 27 (2) of the American Convention, Article 4(2) of the Arab Charter, and Principle 1 of the Principles Relating to Persons Deprived of their Liberty in the Americas.

Human [379]Rights Committee General Comment 29, §13 (a); see Human Rights Committee General Comment 20 §3.

([380]) See Rule 4 of the European Prison Rules

Human Rights Committee General Comment 21, §4.

([381]) General Comment 29 of the Human Rights Committee, §13 (a).

Conditions of detention in violation of article 10 of the International Covenant can, in and of themselves, also constitute a violation of article 7

Deprivation of liberty places individuals in a situation of exposure to the authorities and dependence on them for their basic needs. It is the duty of States to ensure that detainees have access to their necessities and to services that meet their basic needs, including adequate and appropriate food, washing, sanitation, bedding, clothing, health care, natural light, entertainment, exercise, and facilities for practicing religion and communicating with others, including those in the outside world [382].

This duty requires states to ensure that conditions in police custody, which should be short-term, meet requirements that include adequate space, light, ventilation, food, hygiene facilities, clean bedding and blankets, for those who stay overnight in custody [383].

Spending time in detention in an overcrowded and unsanitary place, and lack of privacy, can amount to inhuman or degrading treatment [384].

States should take steps to alleviate overcrowding, including by seeking alternatives to detention and confinement [385].

In assessing conditions of detention, the European Court takes into account the cumulative effects of these conditions [386].

The lack of adequate spatial space for each person can be so excessive that it is considered, in itself, a form of degrading treatment [387].

If combined with other factors, such as lack of privacy, ventilation, daylight or cellular exercises, the lack of sufficient space can amount to degrading treatment [388].

([382]) Special Rapporteur on Torture, 215/2005) UN Doc. A/64) §55; see also the second general report of the Committee for the Prevention of Torture,3) , CPT.Inf) 92.51 - §46

Rules 9-22 and 37-42 of the Standard Minimum Rules, Principles 19 and 28 of the Body of Principles, Rules 5-6, 10-17, 26-28, 48 and 54 of the Bangkok Rules, Principles 11-18 of the Principles on Persons Deprived of Liberty in the Americas, and Rules 29-18 and 39-48 of the European Prison Rules; see Guideline 33 of the Robben Island Guidelines.

([383]) General Report 2 of the Committee for the Prevention of Torture, 3) §42 , CPT.Inf)92..

([384]) Weerawasna v. Sri Lanka, Human Rights Commission,. UN Doc 5/ § §2 (2009) CAT/C/95/D/1406/2005 and 7/4..

([385]) Concluding observations of the Human Rights Committee: Botswana,. UN Doc §17 (2008) CCPR/C/BWA/CO/1, Tanzania, / UN Doc. CCPR/C/TZA §19 (2009) CO/4, Ukraine, §11 (2006) UN Doc. CCPR/C/UKR/CO/6; Concluding observations of the Committee against Torture: Hungary, / UN Doc. CAT/C/HUN . §13 (2006) CO/4

See Principle 17 of the Principles Relating to Persons Deprived of their Liberty in the Americas.

([386]) European Court: Doguz v. Greece (40907) / 98), 46 § (2001), Gavazov v. Bulgaria (54659) / 00), 116- § §103 (2008).

([387]) See, e.g., Kalashnikov v. Russia (47095) / 99) European Court. §97 (2002).

([388]) See, for example, European Court: Tripashkin v. Russia (36898/ 03), §93- §95 (2007), Karamivicius v. Lithuania (53254/ 99), 36 § (2005).

The European Committee for the Prevention of Torture considers an area of 7 square meters as the reasonable minimum area for a solitary cell, while an area of 4 square meters is considered the minimum area that each person should occupy in collective cells [389].

All detainees, regardless of the reasons for their detention, have the right to humane treatment and, in particular, that their inherent human dignity be respected. This right is absolute and should be respected at all times and in all circumstances, including circumstances of war, armed conflict and other exceptional circumstances.

One of the basic rights that must be guaranteed by the competent authorities to detained persons is the right to the highest possible level of physical and mental health. This is not limited to the provision of appropriate health services and care, but also to the provision of adequate food, water and personal hygiene for each detainee and adequate and suitable places for sleeping.

Among the important rights of detainees are the right to equal and non-discriminatory treatment for any reason, as well as the right not to be subject to any disciplinary sanctions other than those stipulated by law, as well as the right not to be isolated from the rest of the detainees, or held incommunicado for long periods, as well as the right of detainees not to use force against them except in cases, and to the extent permitted by law for the purpose of imposing order and control in legal places of detention or prisons [390].

The Code of Conduct for Law Enforcement Officials obligated officials at all times to perform the duty imposed on them by law, by serving the community and by protecting all persons from illegal acts, in a manner consistent with the high degree of responsibility required by their profession [391].

Any act of torture or other cruel, inhuman or degrading treatment or punishment shall be prohibited, instigated or condoned by any personnel

None of them may invoke superior orders or exceptional circumstances such as a state of war, the threat of war, a threat to national security, internal political instability, or any other public emergency to justify torture or other cruel, inhuman or degrading treatment or punishment [392].

The International Covenant on Civil and Political Rights, as well as the Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, have each prohibited the torture of any human being in general, whether free or restricted, or the cruel, inhuman or degrading treatment or punishment of any human being [393].

([389]) General Report 2 of the Committee for the Prevention of Torture, 3) §43 ,CPT/Info)92, Committee for the Prevention of Torture: Georgia: 27) CPT/Inf2010, Annex..

([390]) Article 17 of the International Convention for the Protection of All Persons from Enforced Disappearance.

([391]) The Code was adopted by United Nations General Assembly resolution 24/169, see: Articles 1 and 2 of the Code of Conduct for Law Enforcement Officials.

([392]) Article 5 of the Code of Conduct for Law Enforcement Officials.

([393]) Article 7 of the International Covenant on Civil and Political Rights, and Principle No. 1 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

The Arab Charter on Human Rights prohibits the physical or psychological torture or cruel, degrading, degrading or inhuman treatment of any person, and requires all persons deprived of their liberty to be treated with humanity and respect for their dignity, and prohibits violating this even in states of emergency [394].

Law enforcement officials are also prohibited from committing any act of corruption, and they must confront and combat all such acts with all rigor [395].

Law enforcement officials are obligated to respect the law and must, to the best of their ability, prevent any violations. Law enforcement officials who have reason to believe that a violation has occurred or is about to occur must report the matter to their higher authorities and, if necessary, to other competent authorities and agencies that have the authority to review, and any person who has reason to believe that violations have occurred or are about to occur shall have the right to report the matter to the heads of the designated officials and to other appropriate authorities or agencies with the authority to review or remedy [396].

Employees must be of an adequate level of culture and intelligence, provided that they are given training courses on an ongoing basis the best contemporary practices that prove effective in criminal sciences during service on all their public and private duties inside the prison, provided that this includes training on:

a. Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, whose provisions must guide prison staff in their work and dealings with prisoners;
b. The rights and duties of prison staff in the exercise of their functions, including respect for the human dignity of all prisoners and the prohibition of certain acts, in particular torture and other cruel, inhuman or degrading treatment or punishment;
c. Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and managing the handling of violent offenders, with due regard to methods of prevention and de-escalation, such as negotiation and mediation;
d. First aid and appropriate psychosocial needs of prisoners in the prison setting, as well as welfare and social assistance aspects, including early detection of mental health problems

Employees assigned to work with certain categories of prisoners, or those entrusted with other specialized tasks, must receive training that focuses on the appropriate topics in this regard,

(394) Articles 4, 8, and 20 of the Arab Charter on Human Rights.

(395) Article 7 of the Code of Conduct for Law Enforcement Officials.

Principle 3967 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and Article 8 of the Code of Conduct for Law Enforcement Officials.

provided that all employees pass the theoretical and practical tests prescribed after the end of the training [397].

Police officers who frequently deal with juveniles or are assigned to deal with them must also receive special education and training [398].

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment obliges each State to include education and information regarding the prohibition of torture fully in the training programs of public officials or others who may be involved in the detention, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment[399].

The prison must include a sufficient number of specialized staff such as psychiatrists, psychologists, social assistants, teachers and vocational skills trainers [400].

The Standard Minimum Rules for the Treatment of Prisoners differ in the issue of the doctor's stay in prison. In very large prisons, at least one doctor must reside inside the prison or in direct proximity to it. In other prisons, it is sufficient for the doctor to make daily visits to the prison, provided that he makes his stay close enough to the prison so that he can attend without delay in emergency cases [401].

Dignity is a right of every human being, and it may not be compromised, and the state is obligated to respect and protect it [402].

Whoever is arrested, imprisoned, or his freedom restricted must be treated in a manner that preserves his dignity, and it is not permissible to torture him, intimidate him, coerce him, or harm him physically or morally, and his detention or confinement shall only be in places designated for that purpose as humanly and healthily decent[403].

b. Places of Detention

No person shall be detained except in an officially recognized place designated for this purpose [404].

([397]) Rule No. 47 of the Standard Minimum Rules for the Treatment of Prisoners, Rules No. 75, 76 of the Nelson Mandela Rules.

([398]) Rule No. 12 of the Beijing Rules.

([399]) Articles 10 and 11 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

([400]) Rule No. 49 of the Standard Minimum Rules for the Treatment of Prisoners, and Rule No. 78 of the Nelson Mandela Rules.

([401]) Rule No. 52 of the Standard Minimum Rules for the Treatment of Prisoners.

([402]) Article 51 of the amended Constitution of the Arab Republic of Egypt for the year 2014.

([403]) Article 55 of the amended Constitution of the Arab Republic of Egypt for the year 2014.

([404]) General Comment 20 of the Human Rights Committee, §11; Special Rapporteur on Torture, 68/2003 / §26 (2002) UN Doc. E/CN.4 (e); see Peteva and S. v. Russian Federation (57953/ 00 and 37392/ 03), EC 118 § (2007).

States must ensure that no one is held incommunicado, whether in officially recognized detention facilities or elsewhere, including ships, hotels and private accommodations [405].

This duty applies both within the territory of the State and to virtually all places under its control. The family of the detained person or another third party should be notified of the place of detention, as well as of any transfer. Detainees have the right to contact a court. Detainees and prisoners alike have the right to contact the outside world, in particular their families and lawyers, and to receive appropriate health care.

In order to protect the arrested person from ill-treatment, the first hearing before a judge or judicial officer should mark the end of his/her detention in police custody and unless released, he/she should be transferred to a detention center (pretrial detention) that is not under the control of the investigating authorities

The place of detention should be as close as possible to the place of residence of the detained person, to facilitate his visit by his lawyer and family [406].

The authorities must ensure that there are safe and appropriate places of detention for women throughout the country [407].

The UN Special Rapporteur on Human Rights and Counter-Terrorism expressed concerns about the dispersal of persons detained in connection with terrorism-related crimes in places far from Spain, as this dispersal created problems that prevented detainees from preparing their defense and placed a heavy economic burden on family members who were visiting them [408].

There is an obligation on all States not to detain any person incommunicado, and the family of the detained person, or any third party of his choice, should be notified of the place of detention, and of any transfers from this place.

Places of detention should be as close as possible to the detainee's residence to facilitate visits by his family and lawyers. The competent authorities shall separate places of detention temporarily from those sentenced to imprisonment, provide places of detention for women as well as children,

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Article 17 (2) (c) of the Convention on Enforced Disappearances, Article 11 of the American Convention on Disappearances, Article 10 (1) of the Declaration on Disappearances, Section M(6) (a) of the Principles for a Fair Trial in Africa, and Principle 3(1)of the Principles Relating to Persons Deprived of their Liberty in the Americas.

([405]) Article 17 (1) of the Convention on Enforced Disappearances, and Guideline 23 of the Robben Island Guidelines.

Al-Masri v. The former Yugoslav Republic of Macedonia (39630/ 09), Grand Chamber of the European Court (204- §200 (2012) and 230 - 241; Joint Study of UN Mechanisms on Secret Detention,. UN Doc §17- §35 (2010) 42/A/HRC/13; Concluding observations of the Committee against Torture: United States of America, 2006) UN Doc. CAT/C/USA/CO/2) §17; Syria, §15 (2010) UN Doc. CAT/C/SYR/CO/1, Israel,. UN Doc §26 (2009) CAT/C/ISR/CO/4; Resolution 65/205 of the United Nations General Assembly..

Principle [406]20 of the Body of Principles, Rule 4 of the Bangkok Rules, Principle 9(4) of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 17 of the European Prison Rules.

Recommendation of the Committee of Ministers of the Council of Europe (12) §16 ,Rec)2012.

([407]) General Report 10 of the Committee for the Prevention of Torture 13) §21 ,CPT/Inf2000..

([408]) Special Rapporteur on Human Rights and Counter-Terrorism, Spain, . §20 (2008) UN Doc. A/HRC/10/3/Add.2.

and these places shall be safe and completely separate from places of detention for men. No person may be admitted to places of detention except by virtue of an order signed by the competent authority, and shall not remain after the period specified in this order.

International covenants oblige to take into account several points when placing a prisoner in a detention or confinement facility, such as the proximity of the prison to the community to which the prisoner belongs or to the whereabouts of his family or the place of his reintegration into society, and to ensure, whenever possible, that the environment is compatible with any cultural or linguistic needs. These issues should also be taken into account in any decisions related to the transfer of prisoners to different places of detention. The continued contact of prisoners with family and community support systems in the community during the period of detention is often an important positive factor in supporting their reintegration into society. Some research has concluded that visits, especially regular visits during detention, are linked to the lack of misconduct in prison.

In accordance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, a detainee or prisoner shall be placed in a place of detention or imprisonment reasonably close to his habitual residence, if he so requests and it is possible to do so[409].

The Nelson Mandela Rules stipulated that prisoners must be distributed, as far as possible, to prisons close to their homes or places of social rehabilitation [410].

- The Bangkok Rules recognize the right of women to remain in contact with their families, especially when it comes to children. They oblige women prisoners, whenever possible, to be placed in prisons close to their homes or social rehabilitation centers. Often, women prisoners may be placed in prisons far from their homes due to the small number of women prisoners, and thus the lack of prisons for women in reform and discipline systems around the world. It follows that many women prisoners may receive fewer visits than their male counterparts due to the difficulties faced by families and the costs they bear due to the length of travel to visit. However, the Bangkok Rules emphasize the importance of consulting with women about the determination of the prison and placing them in it, recognizing that women may wish to be referred to a facility far from their place of residence to protect their safety if they are victims of violence committed by their husbands or family members[411].

([409]) Principle No. 20 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

([410]) Rule No. 59 of the Nelson Mandela Rules.

([411]) Thailand Institute of justice, Training Modules For correctional Staff on The management of Woman Prisoners in the ASEAN Region (Bangkok, 2015).

Their responsibility for the care of their children, their personal choices and the appropriate programs and services available to them must be taken into account[412].

Detainees also have the right to contact a judicial authority, to maintain contact with the outside world, especially with their families and lawyers, and to receive necessary and appropriate health care.

The Egyptian Constitution also prohibits the detention or imprisonment of any person except in places designated for that purpose, and stipulates that the places where a person is detained must be humanely and healthily decent, and prohibits everything that is contrary to human dignity or endangers his health [413].

This was confirmed by the Code of Criminal Procedure, which stipulates that no person may be imprisoned except in the prisons designated for this purpose. It also prohibited the warden of any prison from accepting any person into it except by virtue of an order signed by the competent authority and not to keep him after the period specified in this order [414].

The Egyptian legislator stipulated that the penalty of imprisonment shall be imposed on every public official or person assigned to a public service who has deposited or ordered the deposition of any person deprived of his liberty in any way, in other than reform centers and the places indicated in the Egyptian Law on the Organization of Reform and Community Rehabilitation Centers [415].

- Detention records

The authorities shall maintain official and continuously updated records of all detainees under their effective control, in all places of detention, along with their central records [416].

All international covenants also stressed the need to register prisoners and establish a unified system for managing their files, including the United Nations Standard Minimum Rules for the Treatment of Prisoners, which were called the Nelson Mandela Rules, which stated that a unified system for managing prisoners' files must be established in any place where people are imprisoned, and this system must be either an electronic database of records or a record whose pages are numbered and signed, provided that procedures are applied to ensure a safe tracking

([412]) Rule No. 4 of the Bangkok Rules.

([413]) Article 55 of the Constitution.

([414]) Article 41 of the Criminal Procedure Law.

([415]) Article 91 bis of the Law on the Organization of Correction and Community Rehabilitation Centers, added by Law No. 57 of 1968, as amended by Law No. 14 of 2022.

([416]) Concluding observations of the Human Rights Committee: Algeria,. UN Doc §11 (2007) CCPR/C/DZA/CO/3, Concluding observations of the Committee against Torture: Egypt, 44 / §213 (1999) UN Doc. A/54, Cameroon. UN Doc §5 (2003) CAT/C/CR/31/6 (e) and 9(d), USA, §16 (2006) UN Doc. CAT/C/USA/CO/2; Concluding observations of the Subcommittee on Prevention: Sweden, 2008) UN Doc. CAT/OP.SWE/1) §91; HRC Resolution 21/4, §18 (a); see HRC General Comment 20, §11; Special Rapporteur on Torture,. UN Doc . §51 (2010) A/HRC/13/39.

path to review the data and to prevent access to the information contained in the system or modify it without permission [417].

The police and other legally authorized custodial actors are obliged to keep official records, constantly updated, of all detainees under their effective control and the information contained in these records must be accessible to all those who have a legitimate interest in accessing them, including the detainees, their lawyers and family members, as well as judicial and other competent authorities, and recognized national or international human rights bodies and organizations.

The information it contains must be made available to all those who have a legitimate interest in accessing it, including detainees, their lawyers and family members, as well as judicial and other competent authorities and national and international human rights bodies and mechanisms, but the privacy of detained children must be respected [418].

Records must include:

- the identity of the detained person;
- the place and time of deprivation of liberty;
- the authority that ordered the deprivation of his liberty and on what grounds;
- the place of detention of the detained person and the date and time of his admission;
- The authority in charge of the detention facility;
- Date the family was notified of his arrest;
- the state of health of the detained person;
- the date and time the person was brought before a court;
- The date and time of release or transfer to another detention facility, the name of the new place of detention and the authority responsible for the transfer procedures [419].

In this context, the European Court ruled that the failure to keep adequate records for each detained person that include the place, time and basis of his detention constitutes a violation of the right to liberty and security of person [420].

([417]) Rule No. 6 of the Nelson Mandela Rules.

([418]) Articles 17 (3) and 18 of the Convention on Enforced Disappearances, Article 11 of the American Convention on Disappearances, Principle 12 of the Body of Principles, Guideline 30 of the Robben Island Guidelines, Rule 7 of the Standard Minimum Rules, Section M(6) (b) - (d) of the Principles of Fair Trial in Africa, Principle 9(2) of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 15 of the European Prison Rules.

([419]) Concluding observations of the Committee against Torture: Nicaragua,. UN Doc §20 (2009) CAT/C/NIC/CO/1, USA, / UN Doc. CAT/C §16 (2006) USA/CO/2, Tajikistan, 2006) UN Doc. CAT/C/TJK/CO/1) §7; Subcommittee on Prevention: Paraguay, UN Doc. CAT/OP/pry/1 §74 (2010), Maldives, §117 (2009) UN Doc. CAT/OP/MDV/1; Working Group on Arbitrary Detention, 4/ § §73 (2008) UN Doc. A/HRC/7 and 84.

([420]) European Court: Çakşı v. Turkey (23657) / 94), Grand Chamber §105- §107 (1999), Orhan v. Turkey (25656) / § 371- §375 ,(94), Ahmet Azkan et al. v. Turkey (21689) / 93), (372- § §371 (2004)..

Recording of information should start from the time when a person is actually deprived of liberty [421].

An official record, constantly updated, of the names of all persons deprived of their liberty must be kept in any place of detention, and each country must take the necessary steps to establish central records for this, provided that the information contained in those records is made available to the family members of the detainees, their lawyers, or any other person with a legitimate interest in being informed of that information, as well as making that information available to any judicial or other competent authority or authorized to investigate the whereabouts of one of the detained persons [422].

The Standard Minimum Rules for the Treatment of Prisoners require the maintenance of a bound and numbered record, in which details of the identity of each detainee, the reasons for his imprisonment and the competent authority that decided to do so are recorded, as well as the day and hour of the prisoner's entry and the date of his release, and it is prohibited to admit any person to any penal institution without a legitimate detention order [423].

The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Nelson Mandela Rules require that the reasons for the arrest, the time of the arrest, the time of taking the arrested person to the place of detention and the time of his first appearance before a judicial or other authority, as well as the identity of the law enforcement officials concerned, and all information related to the place of detention be recorded, provided that this information is communicated to the detained person or his lawyer, if any, and this right is also stipulated in the Basic Principles on the Role of Lawyers[424].

As for juveniles, a complete and secure record must be kept in every place designated for the detention of juveniles, provided that such record includes information regarding the identity of the juvenile, the incident of detention, its reason and the document authorizing it, the day and hour of admission, transfer and release, details of notices sent to parents or guardians regarding each case of admission, transfer or release related to the juvenile who was in their care at the time of

[421] See Special Rapporteur on Torture, 39 / UN Doc. A/HRC/13 §87 (2010) Add.5; Concluding observations of the Committee against Torture: Turkey, §7 (2003) UN Doc. CAT/C/CR/30/5 (e), Ukraine, / UN Doc. CAT/C §9 (2007) UKR/CO/5; Special Rapporteur on human rights and counter-terrorism, Tunisia, § §23 (2010) UN Doc. A/HRC/16/51/Add.2 and 62.

([422]) Article 10 of the Declaration on the Protection of All Persons from Enforced Disappearance.

([423]) Recommended for adoption by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955, and endorsed by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, rule No. 7 of the Standard Minimum Rules for the Treatment of Prisoners.

([424]) Principle No. 12 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Rule No. 7 of the Nelson Mandela Rules, and Principle No. 21 of the Basic Principles on the Role of Lawyers..

detention, and details of known problems related to physical and mental health, including drug and alcohol abuse [425].

All reports of juveniles, including legal records, medical records and records of disciplinary procedures, shall be placed in a confidential individual file that is updated, accessible only to authorized persons, and classified in a way that makes it easy to understand

Every juvenile has the right to object, to any incident or opinion contained in his file, so that inaccurate, unsupported or unfair data can be corrected. In order to exercise this right, there must be procedures that allow an appropriate third party to view the file upon request and seal juvenile files when they are released and then executed in a timely manner [426].

Records of juvenile offenders must be kept confidential, and it is prohibited to view or access them from persons other than those concerned with the disposition of the case or duly authorized persons. It is also prohibited to use records of juvenile offenders in adult proceedings in subsequent cases in which the same offender is involved[427].

The United Nations Rules for the Protection of Juveniles Deprived of their Liberty obligated that, as soon as possible after reception, complete reports and appropriate information regarding the circumstances and personal circumstances of each juvenile should be drawn up and submitted to the administration.

All reports on juveniles, including legal records, medical records, records of disciplinary proceedings and all other documents related to the form, content and details of treatment, must be placed in a confidential individual file that is updated, accessible only to authorized persons, and classified in a way that makes it easy to understand

Each juvenile may object, where possible, to any incident or opinion contained in his file, so that inaccurate, unsupported or unfair data can be corrected. In order to exercise this right, procedures must be in place to allow an appropriate third party to view the file upon request. Juvenile files shall be sealed when released and then executed in a timely manner[428].

All information related to admission, location, transfer and release must be provided without delay to the parents, guardians or next of kin of the juvenile concerned [429].

The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) also require recording the number of children of women who enter prison and their personal data upon entering prison. These records must include - without prejudice to the rights of the mother - the names of the children, their ages, place of

([425]) Rule No. 21 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

([426]) Rule No. 19 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

([427]) Rule No. 21 of the Beijing Rules.

([428]) Rule No. 19 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

([429]) Rule No. 22 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

residence and their custody or guardianship status if they are not with their mothers, provided that all information related to the identity of the children remains confidential, and that such information is used only in the interest of the child [430].

The recorded data on the prisoner throughout the period of his imprisonment must be updated according to the changes that may occur in his case, or his initial assessment and classification, as well as information on his behavior and discipline, and the requests and complaints submitted by the prisoner throughout his time in prison, especially allegations related to torture and other cruel, inhuman or degrading treatment or punishment, as well as the disciplinary sanctions imposed on him, and any circumstances or reasons for any injuries or deaths, as well as recording the party to which the remains of the prisoner were transferred in the event of his death [431].

The Egyptian legislator was obliged to record the summary of the deposit order in the general register to register the inmates in the presence of the one who brought the inmate, who must sign in the register along with the data recorded [432].

The acting competent employee shall indicate the registration numbers of those sentenced to life imprisonment, aggravated imprisonment, or imprisonment in the register of correction and rehabilitation centers, with any change in these numbers as soon as notification is received from these authorities, so that they can be notified of the guardianship and claim procedures, etc.[433].

The Public Prosecution shall, when inspecting public reform centers or the geography of the establishment, ensure that the records imposed in accordance with the law are used in a regular manner and shall generally take into account what is required by laws and regulations and take what it deems necessary regarding the violations that occur [434].

In military prisons, the summary of the detention order shall be recorded when the prisoner enters the prison in the public register of prisoners in the presence of the person who brought the prisoner and who signs the register, with proof of the registration number in the register on the detention order, and the name and number of the prisoner shall be recorded in the register of the release journal on the date specified for the end of his sentence and on the date of his fulfillment of three quarters of the period if it exceeds nine months[435].

Each military prison shall have the following records: a public record of the registration of prisoners, a record of the daily incidents of imprisonment, a record of the registration of the

([430]) Rule No. 3 of the Bangkok Rules..

([431]) Rule No. 8 of the Nelson Mandela Rules..

([432]) Article No. 4 of the bylaws of the geographical reform centers issued by the Minister of Interior Decree No. 1654 of 1971, and Article No. 4 of the Presidential Decree No. 82 of 1984 regarding the establishment of a labor institution in which repeat offenders are placed.

([433]) Article 1058 of the written, financial and administrative instructions of the Public Prosecution.

([434]) Paragraph No. 5 of Article No. 1748 of the Judicial Instructions of the Public Prosecution.

([435]) Article 4 of the Internal Regulations of Military Prisons issued by the Minister of Interior Resolution No. 721 of 1970.

luggage, clothing, and secretariats of prisoners, a record of the daily release, hearings, and deportations, a record of the health of prisoners, a record of visits by prisoners, a record of prisoners' sanctions, a record of complaints and requests submitted by prisoners, a record of the registration of escapees, a record of visits by visitors who have an official status, a record of proving the passage of guards and the search of prisoners, their luggage, and rooms, provided that all these records are under the supervision and control of the prison warden [436].

c. Right to health

Everyone, including detained persons, has the right to the highest attainable standard of physical and mental health [437].

The right to health is not limited to appropriate health care when needed, but goes beyond that to addressing the factors underlying physical health, such as access to adequate food, water and personal hygiene [438].

Law enforcement officials and prison authorities are responsible for protecting the health of persons in their custody [439].

Health care should be provided free of charge [440].

Detained persons should receive health care equivalent to that received by persons in the community outside the prison, and have access to health services available in the country without discrimination, including on the basis of their legal status or status [441].

Health services in places of detention should include medical, psychological and dental care, and be organized in close cooperation with the country's public health services [442].

([436]) Article 58 of the Internal Regulations of Military Prisons.

([437]) Article 12 of the International Covenant on Economic, Social and Cultural Rights, Article 16 of the African Charter, Article 39 of the Arab Charter, Article 10 of the Additional Protocol to the American Convention on Economic, Social and Cultural Rights, and Principle 10 of the Principles Relating to Persons Deprived of their Liberty in the Americas; see Section 1(11) and Article 11 of the Revised European Social Charter, and General Comment 14 of the Committee on Economic, Social and Cultural Rights, § §34, 4, 11, 43 and 44.

([438]) See the third general report of the Committee for the Prevention of Torture, 12) §53 ,CPT/Inf93.

([439]) Article 6 of the Code of Conduct for Law Enforcement Officials, Principle 10 of the Principles Relating to Persons Deprived of their Liberty in the Americas, Rule 39 of the European Prison Rules, and Principle 103 of the ICC Guidelines; see Principle 31 of the Robben Island Guidelines..

Principle [440]24 of the Body of Principles, Principle 10 of the Principles Relating to Persons Deprived of their Liberty in the Americas, Concluding Observations of the Committee against Torture: Cameroon,. UN Doc § §4 (2004) CAT/C/CR/31/6 (b) and 8(d).

Principle [441]9 of the Basic Principles for the Treatment of Prisoners, Rule 40 of the European Prison Rules; see Principle 10 of the Principles Relating to Persons Deprived of their Liberty in the Americas, Third General Report of the Committee for the Prevention of Torture, 12) §31 ,CPT/Inf93. See Council of Europe Recommendation (EC) 12 (Rec)2010, Rule 31 of the Annex on Foreign Prisoners.

([442]) Rule 22 of the Standard Minimum Rules, Principle 10 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rules 40-41 of the European Prison Rules; see Rules 18-10 of the Bangkok Rules, Third General Report of the Committee for the Prevention of Torture, 12) § §35 ,CPT/Inf93, 38 and 41.

Health care must also include health services appropriate to the sex of the detained person, according to what is available in the country [443].

The State's duty to care for inmates includes prevention, examination and treatment, and this requires the authorities not only to ensure these matters, but also to provide appropriate conditions of detention, as well as health-related education and information that should be provided to detainees, prisoners and employees[444].

The lack of access to adequate health care for detainees was considered a violation of the right to respect for human dignity and to health , as well as a violation of the prohibition on inhuman or degrading treatment[445].

The European Court found, in a number of cases, that the failure to provide timely medical care violated the right to freedom from inhuman and degrading treatment [446].

The court said that the insufficient personal care provided to persons deprived of their liberty living with HIV, AIDS or tuberculosis, constituted a violation of the European Convention [447].

If the authorities detain a person with a serious illness, they must ensure that he is detained in conditions that meet his individual needs [448].

Prisoners in need of special treatment, including mental health care, should be transferred to specialized institutions, or to outpatient hospitals, when such treatment is not available in prison [449].

([443]) Rule 10 (1) of the Bangkok Rules, and Section M(7) (c) of the Principles of Fair Trial in Africa..

([444]) Concluding observations of the Committee against Torture: Ukraine,. UN Doc §25 (2007) CAT/C/UKR/31/5; CPT General Comment 11, §31 ,CPT/Inf2001 (16, CPT Report 3, 12) ,CPT/Inf93.56 - §52.

Ingo [445]v. Cameroon, Commission on Human Rights, / UN Doc. CCPR .1/ §7 (2009) C/96/D/1397/2005

Media Rights Agenda and Constitutional Rights Project v. Nigeria (93/105, 128/94, 152/96), African Commission, Annual Report 12 (1998) §91, pen International, Human Rights and International Rights Project on behalf of Ken Saro-Wiwa Jr. and Civil Liberties Organization v. Nigeria (94/137, 139/94, 154/96, 161/97) African Commission, Annual Report. §112 (1998) 12.

([446]) See, e.g., European Court: Aleksanian v. Russia (46468) / 06), §158 (2008), Gavtadze v. Georgia (23204) / 07), (2009) Harutyunyan v. Armenia (34334) / 04), § §104 (2010), 114-116, Sarban v. Moldova §86- §87 (2005) ,(05/3456), 90-91, Kucherok v. Ukraine (2570) / 04), § 147- §152 (2007), Kotsavtis v. Greece (39780) / 06), (2008) .61- §47.

([447]) European Court: Yakovenko v. Ukraine (15825) / 06), (2007) 102- § §90, Pokhlebin v. Ukraine (35581) / 06), (68- §61 (2010), Hamatov v. Azerbaijan (9852) / 03 and 13413/ 04), (121- §107 (2007), Aleksanian v. Russia (46468) / 06), (158- §133 (2008), Khodobin v. Russia §92- §97 (2006) ,(00/59696)..

([448]) European Court: Varptohs v. Lithuania (4672) / 02), (20045) 61- §56, Kudla v. Poland (30210), Grand Chamber 90 § (2000)..

([449]) Rule 22 (2) of the Standard Minimum Rules, and Rule 46 (1) of the European Prison Rules.

Paladi v. Moldova (39806/ 05), Grand Chamber of the European Court §70- §72 (2009); Third General Report of the Committee for the Prevention of Torture,) CPT/Inf93 §41- §43 ,12 and 57 - 59; see Slavomir Musial v. Poland (29806/ 05), Grand Chamber of the European Court (97- §96 (2009); Congo v. Ecuador (11) .427) American Commission, Report 63/99 (48- §47 (1998) and 63 - 68.

Special measures must be taken for people with serious mental disorders commensurate with their condition[450].

Health personnel have a moral duty to provide detainees and prisoners with the same level of health care that is provided outside the prison [451].

The health care provided must respect the principles of privacy and obtain informed consent, including the right of the individual to refuse treatment [452].

Physicians who provide health care should be independent of the police and public prosecution [453].

Even when doctors are appointed and paid by the authorities, they must not be required to act contrary to their professional judgment or ethics. Their primary concern should be the health needs of their patients, who owe them a duty of care and privacy. They must refuse to abide by any procedures that have no legitimate medical or therapeutic purpose, and declare their opinion if the health services are contrary to professional ethics, abusive or insufficient [454].

Any of the following shall be considered contrary to medical ethics for health personnel:

- Participation in or complicity in torture or other ill-treatment;
- Engage in a professional relationship with detainees or prisoners whose purpose is not, exclusively, to assess, protect or improve their health;
- Provide investigative assistance in a manner that could adversely affect the health of individuals or contravene international standards;
- participate in certification that persons are fit for health for any treatment or punishment that could have adverse effects on their health or contravene international standards;
- Participating in restricting the movement of any person unless such action is necessary to protect the health and safety of the person or others, and does not pose any danger to his health[455].

([450]) Rules 12 and 47 of the European Prison Rules; see Rule 16 of the Bangkok Rules.

European Court: Reynolds v. France (5608) / 05), (- § §128 (2008) §38- §46 (2012) ,(08/24527) M.S. v United Kingdom ،129..

([451]) Principle 1 of the Principles of Medical Ethics..

([452]) Rule 8 of the Bangkok Rules, Principle 10 of the Principles Relating to Persons Deprived of their Liberty in the Americas.

Third General Report of the Committee for the Prevention of Torture, 12) §45- §51 ,CPT/Inf93; Recommendation 7) R)98 of the Council of Europe, Annex 16- §13.

Committee [453]against Torture: Mexico, (2003) UN Doc. CAT/C/75 §220 (j); see, CPT: Ukraine, 30) §27 ,CPT/Inf2012, Bulgaria, 32) §51 ,CPT/Inf2012.

([454]) Principles 1- 5 of the Principles of Medical Ethics, Istanbul Protocol, §67- §66..

([455]) Principles 2-5 of the Principles of Medical Ethics..

Detainees and prisoners should be offered independent medical examinations as soon as possible after being brought to any place where they are deprived of their liberty [456].

Detainees have the right to request a second medical opinion [457].

Detained persons who have not yet been tried may receive treatment (at their own expense) by their own doctor or dentist, if there is a reasonable basis for their request [458].

States must ensure that the necessary facilities are in place for detainees to communicate with their doctor[459].

If this request is denied, the reasons must be explained

Detainees and prisoners should be able to seek health care services at any time on a confidential basis; nor should prison officers scrutinize such requests [460].

Health care personnel should inform the authorities if they observe that a detainee's mental or physical health is at serious risk due to continued detention or imprisonment, or for any other reasons [461].

Women have the right to be examined or treated by a female doctor, upon their request, wherever possible, except in cases that require urgent medical intervention and one of the medical staff must be present at the time of examination of the detained or imprisoned woman contrary to her desire by a doctor or male nurse [462].

Accurate and comprehensive records must be kept for each medical examination, in which the names of all persons present at the time of the examination must be included, and the person who underwent the examination must have access to these records [463].

Principle [456]24 of the Body of Principles, Guideline 20 (b) of the Robben Island Guidelines, Rule 24 of the Standard Minimum Rules, Principle 9(3) of the Principles for Persons Deprived of their Liberty in the Americas, and Rule 42 of the European Prison Rules; see Rule 6 of the Bangkok Rules.

([457]) Principle 25 of the Set of Principles..

([458]) Rule 91 of the Standard Minimum Rules.

Concluding observations of the Committee against Torture: Czech Republic, § §113 (2001) UN Doc. A/56/44 (e) and 82 (c), Georgia, 44 / UN Doc. A/56 § §81 (2001) (e) and 82 (c).

([459]) Section M (2) (e) of the Principles of Fair Trial in Africa..

([460]) The Third General Report of the Committee for the Prevention of Torture, 12) §34 ,CPT/Inf93.

([461]) Rule 25 of the Standard Minimum Rules, and rule 43 of the European Prison Rules.

([462]) Rule 10 (2) of the Bangkok Rules..

([463]) Subcommittee on Prevention of Torture, Maldives, / UN Doc. Cat §111- §112 (2009) OP/MDV/1; see Zhiludkova v. Ukraine, Commission on Human Rights, 1996/4/ §8 (2002) UN Doc. CCPR/C/76/D/726; Istanbul Protocol, 84- §83.

Principle 26 of the Body of Principles, and Principle 9(3) of the Principles Relating to Persons Deprived of their Liberty in the Americas..

Where a detainee or prisoner alleges that he or she has been tortured or otherwise ill-treated, or there is reason to believe that an individual has been tortured or ill-treated, that person should be promptly examined by an independent physician who is able to issue his or her reports without interference by the authorities and in line with the duty to ensure independent, impartial and thorough investigations into such allegations, such investigations should be conducted by an independent medical body as required by the provisions of the Istanbul Protocol[464].

d. Right to freedom from discrimination

Every person deprived of his liberty has the right to be treated humanely and with respect for the inherent dignity of the human person, without discrimination on the basis of race, color, ethnic, national or social origin, religion, political or other opinion, sexual orientation, gender identity, disability or any other situation or difference that makes it different. The authorities must ensure that the detention system respects the family rights and privacy of the detained person, and the right to religious freedom. This system should also take into account the cultural customs and religious rites of detainees and prisoners [465].

The authorities must pay particular attention to respecting the rights of LGBTI women, men, transgender and bisexual people, who are at risk of discrimination and sexual abuse in custody or in prison [466].

States must also ensure that detainees and prisoners do not suffer violations of their human rights or persecution because of their sexual orientation or gender identity, including for sexual abuse, unjustified and humiliating searches or the use of abusive words [467].

The transgender person's choices and objective criteria in determining his or her gender identity should be taken into account when determining the place of detention or imprisonment with males or females [468].

([464]) Articles 12 and 13 of the Convention against Torture.

Third General Comment of the Committee for the Prevention of Torture, §25; see Istanbul Protocol, §69- §73 and 83; Principle 6 of the Principles of Inquiry on Torture; Concluding Observations of the Human Rights Committee: Hungary, / UN Doc. CCPR/C/HUN . §14 (2010) CO/5.

([465]) General comment 31 of the Committee on the Elimination of Racial Discrimination, § §5 (f) and 26 (d).

([466]) The Second General Comment of the Committee against Torture, 22- § §21; General Comment 31 of the Committee on the Elimination of Racial Discrimination; Report of the Special Rapporteur on Torture, 39 / §74- §75 ,(2010) UN Doc. A/HRC/13; Concluding observations of the Committee on the Elimination of Racial Discrimination: Czech Republic, / UN Doc. CERD/C §11 (2007) CZE/CO/7, Australia, 17-UN Doc. CERD/C/AUS/CO/15 . §20 (2010).

Concluding [467]observations of the Committee against Torture: Egypt, / UN Doc. CAT/C/§6 (2002) CR/29/4 (k); Recommendation 5 (CM/Rec)2010 of the Council of Europe, Supplement §1 (a) (4).

Principle [468]9 of the Yogyakarta Principles; Recommendation 5 (CM/Rec)2010 of the Council of Europe, Supplement §4; Special Rapporteur on the independence of judges and lawyers, . §81 (2011) UN Doc. A/66/289.

States must ensure that there is no discrimination in treatment or conditions of detention, directly or indirectly, against persons with disabilities. The pain or suffering caused by discriminatory treatment can constitute torture or other ill-treatment [469].

The authorities should provide protective detention for individuals without marginalizing them from the rest of the detainees more than their protection requires, and without exposing them to additional risks of ill-treatment [470].

Individuals who are separated from others in their place of residence, for the purpose of their protection, should not be detained in conditions worse than those of other detainees in the detention facility, in any way [471].

States have a duty to investigate persons responsible for acts of violence or abuse against detainees, and to bring them to justice, whether they are officials or other prisoners [472].

The Committee against Torture affirmed that "the use of violence or psychological or physical abuse in a discriminatory manner (by a representative of the State or with his consent or complicity) is an important factor in determining whether an act constitutes torture" [473].

e. Detained women

Detained women must reside in a separate place of detention from men, either in separate institutions, or in separate facilities within the same institution, and under the supervision of female staff [474].

Male employees should not occupy advanced positions close to places where women are deprived of their liberty, nor should they enter the part where women are detained except accompanied by a female employee [475].

([469]) Special Rapporteur on Torture, 175/2008) UN Doc. A/63) 54- §53; Hamilton v. Jamaica, Human Rights Commission, / UN Doc. CCPR 1/ §3 (1999) C/66/D/616/1995 and 8/2; Price v. United Kingdom (96/33394), European Court (30- §21 (2001)..

([470]) Special Rapporteur on Torture, 165/2001) UN Doc. A/56) §39 (j) and 68/2003 / §26 (2002) UN Doc. E/CN.4 (j); see Principle 9 of the Yogyakarta Principles; Recommendation 5 (CM/Rec)2010 of the Council of Europe, Supplement §4.

Committee [471]for the Prevention of Torture, Armenia,CPT/Inf2004(25), §74.

([472]) Concluding observations of the Committee against Torture: United States of America, 44 / §179- §180 (2000) UN Doc. A/55..

([473]) General Comment 2 of the Committee against Torture, §20..

([474]) Rules 8(a) and 53 of the Standard Minimum Rules, Guideline 36 of the Robben Island Guidelines, Section M(7) (c) of the Fair Trial Principles in Africa, Principles 20-19 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Guideline 105 of the ICC Guidelines.

Rule 53 (2[475]) of the Standard Minimum Rules; see Principle 20 of the Principles Relating to Persons Deprived of their Liberty in the Americas.

Concluding observations of the Human Rights Committee: Canada, / UN Doc. CCPR/C §18 (2005) can/CO/5, USA, / UN Doc. CCPR/C §33 (2006) USA/CO/3/Rev.1, Zambia, UN Doc. CCPR/C/ZMB/CO/3 §20 (2007); Concluding observations of the Committee against Torture: Togo,. UN Doc §20 (2006) CAT/C/TGO/CO/1, Philippines, UN Doc.

Only female staff should carry out physical searches of female detainees [476].

International standards emphasize the duty of States to address the gender-specific needs of women deprived of their liberty [477].

States are required to provide for the special needs of women in terms of personal hygiene and health care, including antenatal and postnatal care.[478]

Where possible, arrangements should be made for babies to be born in a hospital outside the prison [479].

Women must be able to exercise their right to private and family life, as their communication with their families should be encouraged and facilitated, including unhindered communication with their children for long periods [480].

Decisions must allow children to reside with their detained mothers in the best interests of the children, who should not be treated as prisoners, while special arrangements should be provided for them [481].

Before women are detained or imprisoned, they should be allowed to make arrangements for their dependent children, taking into account the best interests of the child [482].

Women who have suffered sexual abuse or other forms of violence must be informed of their right to seek redress; prison authorities must also assist them in obtaining legal assistance, and ensure that they receive specialized psychological support or advice [483].

f. Additional Guarantees for Detainees on Cases

CAT/C/PHL/CO/2 §18 (2009); CEDAW concluding observations: Argentina, / UN Doc. CEDAW/C/§27- §28 (2010) ARG/CO/6; see general comment 2 of the Committee against Torture, §14.

([476]) Rule 19 of the Bangkok Rules..

([477]) The Bangkok Rules, Section M(7) (c) of the Fair Trial Principles in Africa, and Rule 34/1 of the European Prison Rules..

([478]) Rules 5-18 of the Bangkok Rules, Principles 10 and 12 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 19/7 of the European Prison Rules.

CPT General Report 10, 13) §30- §33 ,CPT/Inf2000; see Special Rapporteur on Torture, 3/ §41 (2008) UN Doc. A/HRC/7..

([479]) Article 24 (b) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Rule 48 of the Bangkok Rules, Rule 23 (1) of the Standard Minimum Rules, Rule 3/34 of the European Prison Rules, and Guideline 104 of the ICC Guidelines.

General Report 10 of the Committee for the Prevention of Torture, 13) §27 ,CPT/Inf2000..

([480]) Rules 26 - 28 and 44 of the Bangkok Rules..

([481]) Article 3 of the Convention on the Rights of the Child, Rules 49-52 of the Bangkok Rules, Principle 10 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 36 of the European Prison Rules.

General Report 10 of the Committee for the Prevention of Torture, 13) §28- §29 ,CPT/Inf2000..

([482]) Rule 2(2) of the Bangkok Rules..

([483]) Rule 7 of the Bangkok Rules, and Rule 34/2 of the European Prison Rules.

International standards provide additional safeguards for persons detained pending trial. They provide that anyone suspected of, charged with, arrested for, or detained in connection with a crime, who has not yet been tried, must be treated as innocent.

They must be treated in a manner commensurate with their status as persons who have not yet been convicted, so the treatment of persons who have not yet been tried should be different from the treatment of convicted prisoners, and their conditions and the system on which they are treated (including their contact with their families) should be at least equal to what convicted prisoners receive [484].

During their detention, they should be subject only to such restrictions as are deemed necessary and proportionate to the investigation or administration of justice in their cases, and to the security of the institution in which they are detained [485].

Persons who have not yet been convicted by a court must be detained in places that separate them from persons who have been convicted and sentenced [486].

Under the European Convention and the Arab Charter, this right is non-derogable (temporary restriction) in times of emergency

An important guarantee for pre-trial detainees is that the authorities responsible for detention are separate and independent from the authorities conducting investigations [487].

Once a judicial authority decides that the accused should be detained pending the case, he or she should be arrested or detained in a detention center that is not under the authority of the police [488].

If further investigations are necessary, it is preferable to do so in the prison or detention center, and not in police-controlled facilities [489].

The rights of a person detained pending a case include the following:[490].

([484]) Article 10 (2) (a) of the International Covenant, Article 5(4) of the American Convention, Article 20 (2) of the Arab Charter, Rule 85 (1) of the Standard Minimum Rules, Guideline 35 of the Robben Island Guidelines, Principle 19 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 18 (8) of the European Prison Rules.

([485]) General Comment 21 of the Human Rights Committee, §9.

Working Group on Enforced Disappearances, 6/2005 / UN Doc. E/CN.4 . §79 (2004).

Concluding [486]observations of the Human Rights Committee: Azerbaijan,. UN Doc §8 (2009) CCPR/C/AZE/CO/3, El Salvador, UN Doc. CCPR/C/SLV/CO/6 §14 (2010), Special Rapporteur on Torture, 68/2003 / UN Doc. E/CN.4 §26 (2002) (g), 273 / §75 (2010) UN Doc. A/65; see Concluding Observations of the Committee against Torture: Japan, 2007) UN Doc. CAT/C/JPN/CO/1) §15 (a).

General Report 12 of the Committee for the Prevention of Torture, 15) §46 ,CPT/Inf2002..

([487]) Ladona v. Slovakia (31827 / 02), European Court (2011) .74- §59.

Principle 36[488] (2) of the Body of Principles..

([489]) Article 10 (2) (a) of the International Covenant, Article 5(4) of the American Convention, Rule 84 (2) of the Standard Minimum Rules, and Articles 94 - 101 of the European Prison Rules..

([490]) Principles 14 and 17-18 of the Body of Principles, Rules 86 and 88-93 of the Standard Minimum Rules, and Rules 101-94 of the European Prison Rules; see Section M(1) of the Fair Trial Principles in Africa Principles 14 and

- Having facilities to communicate in private with their lawyers to prepare their defence;
- receive assistance from an interpreter;
- Receive the visit from his doctor and his own dentist, at his expense, and continue the necessary treatment;[491].
- Receive visits and make additional phone calls;
- wear their own clothing if it suits them, and wear good-looking civilian clothing when they appear in court;
- Access to books, writing materials and newspapers;
- The opportunity to work without being obliged to do so;
- Staying in a cell alone, whenever possible, subject to court directives, local customs, or the choice of the same person.

The conditions and regime of detention shall not unreasonably interfere with the exercise by the accused of his right and ability to prepare and present his defence.

The European Court noted that conditions of pre-trial detention should enable detainees facing criminal charges to read and write with a reasonable degree of concentration, as an element of the right to adequate time and facilities for the preparation of the defence [492].

g. Disciplinary measures

No detainee or prisoner may be subject to disciplinary punishment within an institution except in accordance with clear rules and procedures specified by law or order [493].

The law or system must also specify the conduct that constitutes a disciplinary offense; the types and duration of the permissible punishment; and the authority competent to impose them [494].

The State remains responsible for determining and regulating disciplinary measures and procedures even when it contracts with a private company to manage an institution [495].

Disciplinary measures should be treated as a last resort and may not be considered a disciplinary offense except for those actions that threaten the proper functioning of order or safety and security [496].

17-18 of the Body of Principles, Rules 86 and 88-93 of the Standard Minimum Rules, and Rules 101-94 of the European Prison Rules; see Section M(1) of the Fair Trial Principles in Africa.

([491]) See Rule 37 of the European Rules for Pre-Trial Detention.

([492]) Mazet v. Russia (63378) / 00), European Court 81 § (2005)..

([493]) The Second General Report of the Committee for the Prevention of Torture, 3) §55 ,CPT/Inf92.

([494]) Principle 30 of the Body of Principles, Rule 29 of the Standard Minimum Rules, Principle 22 (1) - (2) of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 57 of the European Prison Rules..

([495]) Rule 88 of the European Prison Rules..

([496]) Rules 56 - 57 (1) of the European Prison Rules..

The competent authorities must conduct a thorough examination of the alleged disciplinary violation and must inform the individual concerned of the alleged violation and give him the opportunity to defend himself, provide him with legal assistance if the interest of justice so requires, and an interpreter if necessary. The individual has the right to review an independent authority higher than the disciplinary decisions taken against him [497].

If the alleged disciplinary offence reaches the level of a "criminal offence" under national law or international standards, the full spectrum of all fair trial rights applies.

The severity of the punishment must be commensurate with the crime, and the punishment itself must be consistent with international standards. The disciplinary punishment imposed on a detainee in pretrial detention may not entail the extension of the period of his detention, or interfere with his preparation for his defense [498].

Prohibited sanctions include:

- Collective disciplinary sanctions;
- Corporal punishment;
- Confinement in a dark cell;.
- Cruel, inhuman or degrading punishments, including restrictions on food and drinking water;[499].
- Prohibition of family visits, especially for children;[500].
- Narrowing the detention of pregnant or breastfeeding women or separating them from the rest of the detainees [501].

h. Solitary confinement

Prolonged solitary confinement (isolation from other prisoners) can constitute a violation of the prohibition on torture and other ill-treatment, particularly when combined with isolation from the outside world [502].

Principle [497]30 (2) of the Body of Principles, Rules 29-30 of the Standard Minimum Rules, and Rules 58-59 of the European Prison Rules; see Principle 21 of the Principles for Persons Deprived of their Liberty in the Americas.

Rule 59 (c) of the European Prison Rules.

Principle 30 of the Body of Principles, Principle 22 (1) of the Principles on Persons Deprived of their Liberty in the Americas, and Rule 61 of the European Prison Rules..

([498]) Rule 41 of the European Rules for Pre-Trial Detention..

([499]) Rule 31 of the Standard Minimum Rules, Principles 11 and 22 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 60 of the European Prison Rules.

([500]) Rule 23 of the Bangkok Rules, and rule 60 of the European Prison Rules..

([501]) Rule 22 of the Bangkok Rules, Principle 22 (3) of the Rules Relating to Persons Deprived of their Liberty in the Americas..

([502]) General Comment 20 of the Human Rights Committee, §6; Special Rapporteur on Torture, 268 / §81 (2011) UN Doc. A/66; Concluding observations of the Committee against Torture: New Zealand, 4/ §5 (2006) UN Doc. CAT/C/CR/32 (d) and 6(d), USA, UN Doc. CCPR/C/USA/CO/2 §36 (2006); McCallum v. South Africa, Human Rights Commission,. UN Doc 5/ §6 (2010) CCPR/C/100/D/1818/2008; Miguel Castro-Castro Prison v. Peru, Inter-American

Solitary confinement should not be imposed on children or pregnant women and those with young children[503].

It should also not be imposed on people with mental disabilities [504].

Solitary confinement should be used only as an exceptional measure, and for the shortest possible period of time, under judicial supervision, and there should be adequate mechanisms for review, including the possibility of judicial review of the order [505].

Steps should be taken to minimize the harmful effects of solitary confinement on the individual by ensuring that he is allowed enough exercise and social and mental stimulation, and that his health condition is kept under regular control [506].

The regulation of solitary confinement, especially during the period of pre-trial detention, should be strictly regulated by law and imposed only on the basis of a court decision specifying its duration [507].

It shall not affect the contact of a person subject to solitary confinement with a lawyer or deprive him completely of contact with his family [508].

The Special Rapporteur on torture has called for an end to its use in the pre-trial period; solitary confinement exposes detained persons to psychological pressures that can lead them to make self-incriminating statements. The Special Rapporteur said that the deliberate use of solitary

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Court 323 § (2006); Van der Veen v. The Netherlands (99/50901), European Court 51 § (2003); see Concluding Observations of the Committee against Torture: Japan, §18 (2006) UN Doc. CAT/C/JPN/CO/1..

Principle 22 (3[503]) of the Principles Relating to Persons Deprived of their Liberty in the Americas; see Rule 22 of the Bangkok Rules, and Rule 67 of the UN Rules for the Protection of Juveniles Deprived of their Liberty.

CRC General Comment 10, §89.

([504]) Special Rapporteur on Torture, 268/2011) UN Doc. A/66) .101- § §79.

Principle 22 (3[505]) of the Principles Relating to Persons Deprived of their Liberty in the Americas and Rules 51, 53, 60/5 and 70 of the European Prison Rules.

European Court: Ramírez Sánchez v. France (59450/ 00), (Grand Chamber) (145- §138 (2006, AB. Russia (141439/ 06), 108 § (2010); Concluding Observations of the Committee against Torture: Azerbaijan, / UN Doc. CAT/C/AZE §13 (2009) CO/3, Denmark, §14 (2007) UN Doc. CAT/C/DNK/CO/5, Israel, §18 (2009) UN Doc. CAT/C/ISR/CO/4; see Concluding Observations of the Committee against Torture: Norway, 3/ §4 (2002) UN Doc. CAT/C/CR/28 (d)..

([506]) General Report 21 of the Committee for the Prevention of Torture, 28) §61- §63 CPT/Inf2011; Special Rapporteur on Torture, 268 / § §83 (2011) UN Doc. A/66 and 100 - 101..

([507]) Concluding observations of the Committee against Torture: Luxembourg,. UN Doc § §5 (2002) CAT/C/CR/28/2 (b) and 6(b).

Concluding observations of the Committee against Torture: Russian Federation, §8 (2002) UN Doc. CAT/C/CR/28/4 (d); CPT General Report 21, 28) § §56 ,CPT/Inf2011 (a) and 57 (b).

([508]) Rule 42 of the Council of Europe Rules for Pre-Trial Detention.

Special Rapporteur on Torture, 268 / § §55 (2011) UN Doc. A/66, 75 and 99.

confinement to obtain information or a confession from the detained person constitutes a violation of the prohibition on torture and other ill-treatment [509].

Solitary confinement should not be imposed as part of the operative part of the court judgment [510].

The use of solitary confinement in punishment cells should also be prohibited[511].

i. Right to freedom from torture and other forms of ill-treatment

Everyone has the right to physical and psychological integrity; no one may be subjected to torture or other cruel, inhuman or degrading treatment or punishment [512].

The right to be free from torture and other cruel, inhuman or degrading treatment or punishment is an absolute right and a principle of customary international law applicable to all persons in all circumstances, and shall never be restricted or impaired, including in times of war or states of emergency.

The duty of the State to prevent torture and other forms of ill-treatment not only applies within the borders of the State's territory, but extends to any person under its effective control anywhere in the world [513].

It also applies to acts of torture and to complicity or participation in such acts [514].

No exceptional circumstances whatsoever, including terrorist threats or other violent crimes, may be invoked to justify torture or other ill-treatment. This prohibition applies regardless of the nature of the offence allegedly committed [515].

Special [509]Rapporteur on Torture, 268 / § §73 (2011) UN Doc. A/66 and 85.

([510]) General Report 21 of the Committee for the Prevention of Torture, 28) §56 ,CPT/Inf2011 (a).

Principle 22 (3[511]) of the Principles Relating to Persons Deprived of their Liberty in the Americas.

See Concluding Observations of the Committee against Torture: Bolivia:. UN Doc §95 (2001) A/56/44 (c)..

([512]) Article 5 of the Universal Declaration, article 7 of the International Covenant, article 2 of the Convention against Torture, articles 37 (a) and 19 of the Convention on the Rights of the Child, article 10 of the Migrant Workers Convention, article 5 of the African Charter, article 5(2) of the American Convention, articles 1 and 2 of the American Convention for the Prevention of Torture, article 8 of the Arab Charter, article 3 of the European Convention, principle 6 of the Body of Principles, and articles 2 and 3 of the Declaration against Torture.

([513]) General Comment 31 of the Human Rights Committee, §10; General Comment 2 of the Committee against Torture, §16; Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory, Advisory Opinion of the International Court of Justice 111 § (2004); Concluding Observations of the Committee against Torture: United States of America, . §15 (2006) UN Doc. CAT/C/USA/CO/2.

([514]) Article 4 of the Convention against Torture, and articles 3 and 6 of the American Convention against Torture.

See [515]article 2(2) of the Convention against Torture, article 5 of the American Convention against Torture, principle 6 of the Body of Principles, article 5 of the Code of Conduct for Law Enforcement Officials, article 3 of the Declaration against Torture, and guidelines 9-10 of the Robben Island Guidelines.

See General Comment 20 of the Human Rights Committee, §3; Committee Against Torture: General Comment §5 ,2, Israel, 44/2001) UN Doc. A/57) §53 (i) and§14 (2009) CAT/C/ISR/CO/4. See also Grand Chamber of the European Court: Gloux v. Germany: (54810) / 00), 99 § (2006), Gavgen v. Germany, §87 (2010), (05/22978), F. v. United Kingdom (24888) / 94), (1999) §69, Ramirez Sánchez v. France (59450) / 00), 116 § (2006), Chahal v. United Kingdom (22414) / 93), (80- § §76 (1996), Saadi v. Italy § §127 (2008) ,(60/37201) and 137..

All law enforcement officials are prohibited from carrying out, instigating, participating in, acquiescing in, tolerating or tolerating acts of torture or other cruel, inhuman or degrading treatment or punishment, and the fact that an official acted on orders from his superiors is in no way a justification for torture or other ill-treatment or punishment; all are obliged under international law to disobey such orders [516].

Law enforcement officials are also required to report any case of torture or ill-treatment that occurs or is about to occur [517].

The prohibition on torture and other ill-treatment or punishment includes acts that cause mental or physical suffering [518].

Typically, persons deprived of their liberty are at greater risk of torture or ill-treatment, including before and during interrogation and any information obtained through such methods should be excluded from evidence in trials

The State's duty to ensure freedom from torture and other forms of ill-treatment means that it must take due care to protect the detained person from inter-prisoner violence [519].

- Sexual abuse

The right to be free from torture and other ill-treatment in the place of detention or imprisonment includes the right not to be subjected to rape or any other form of sexual violence or abuse by any person Any non-consensual sexual contact, of any kind, amounts to sexual violence

States must take the necessary measures to prevent sexual violence, including by separating men and women in places of detention and prisons, and detaining women under the authority of female officials where rape committed by, or with the consent or acquiescence of, a public official constitutes torture. Rape includes sexual intercourse without consent by the aggressor penetrating anything or any part of his body into the mouth, vagina or anus of the victim [520].

See [516]Article 2(3) of the Convention against Torture, Articles 3 and 4 of the American Convention against Torture, and Article 5 of the Code of Conduct for Law Enforcement Officials; see also Guideline 11 of the Robben Island Guidelines.

([517]) Article 8 of the Code of Conduct for Law Enforcement Officials..

([518]) Article 1 of the Convention against Torture; see Article 2 of the American Convention against Torture.

([519]) See Principle 23 of the Principles Relating to Persons Deprived of their Liberty in the Americas.

General Comment 31 of the Human Rights Committee, §8; see Velázquez Rodríguez v. Honduras, Inter-American Court 172 § (1988); European Court: Mahmut Kaya v. Turkey (22535/ 93), 115 § (2000, a. UK §22 (1998) ,(94/25599)..

([520]) Special Rapporteur on Torture: 15/1986/ UN Doc. E/CN.4 UN Doc. ،24- §15 (1995) UN Doc. E/CN.4/1995/34 , §119 (1986) 36- §34(2008)A/HRC/7/3; Raquel Martí de Mejía v. Peru (10).970), American Commission (1996); Aydin v. Turkey (2317) / 94), Grand Chamber of the European Court 86 § (1997).

State authorities must take due care to protect detainees and prisoners from sexual violence that can be committed by other inmates [521].

Employees in places of detention must not use their position to commit acts of sexual violence, including rape or the threat of rape, shameless body searches, "virginity tests" or even other forms of verbal abuse such as insults and insults of a sexual nature [522].

It is initially assumed that sexual contact between detainees or prisoners and officials or employees is coercive in nature, due to the coercive nature of the confinement environment [523].

The US court ruled that watching a male guard pointing his gun at inmates while they are using the toilet while naked and only pawning a curtain of cloth is considered to be subject to sexual violence [524].

- Use of force

Force may be used against detainees or prisoners only when it is absolutely necessary to maintain security and order within the institution, in cases of attempted escape, when there is resistance to a legal order, or when personal safety is threatened. In any case, it may only be used if non-violent means and methods prove ineffective, and as a last option and the least necessary force must be used to address the situation [525].

Firearms may be used only for the purpose of defense against an imminent threat of death or serious injury, to prevent the occurrence of a crime involving a grave threat to life, or to arrest a person posing such a danger or to prevent his escape, and only when the use of any other less harmful means is insufficient to remedy the situation and the deliberate use of firearms for the purpose of killing is permitted only when it is unavoidable to protect life[526].

The use of force by officials must be limited to the minimum limits, and the unnecessary and excessive use of physical force that is not required by the behavior of the detainee or prisoner, and is not commensurate with this behavior, can amount to torture or other forms of ill-treatment [527].

([521]) General Comment 2 of the Committee against Torture, §18; General Comment 31 of the Human Rights Committee, §8.

([522]) Special Rapporteur on Torture, 3/2008) UN Doc. A/HRC/7) § §34 and 42; see Miguel Castro-Castro Prison v. Peru, Inter-American Court 312 § (2006).

([523]) Special Rapporteur on Torture, 3/2008) UN Doc. A/HRC/7) §42; Prosecutor v. Kunarac et al., ,IT-96-23 & IT-96-23/1-A Appellate Judgment of the ICTY (2002) .133- §131.

([524]) Miguel Castro - Castro Prison v. Peru, Inter-American Court §259 (2006) (h) and 306.

([525]) Rule 54 of the Standard Minimum Rules, Principles 4, 5 and 15 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Article 3 of the Code of Conduct for Law Enforcement Officials, Principle 23 (2) of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 64 of the European Prison Rules.

([526]) Principles 9 and 16 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

([527]) European Court: Artyomov v. Russia (14146/ 02), (2010) 173- §164, Kucherok v. Ukraine (2570) / 04), (133- §128 (2007), Omar Karateb v. Turkey (20502/ 05), (2010) (French only) 65- §54; see Special Rapporteur on Torture, 56 / 2004 / §44 (2003) UN Doc. E/CN.4..

Staff should be trained in methods that enable them to safely and minimally use force, in accordance with international standards. In general, they should not carry firearms or other lethal weapons except in situations of operational emergency. Other law enforcement agencies should generally not be involved in dealing with prisoners inside prisons [528].

Pepper spray and tear gas should not be used indoors and should never be used against any controlled person[529].

Electroshock weapons (Tasers) should only be used by security personnel specially trained for this purpose and as a last resort in extremely dangerous circumstances, and in the face of an immediate threat to life, where it is not possible to resort to any other method that does not lead to a greater risk of causing injury or death [530].

When using force against any individual in the place of detention, the authorities should document such use of force [531].

This individual's right to prompt medical examination and, if necessary, treatment should be respected [532].

If he is injured, his relatives or close friends should be notified [533].

Prompt, independent and impartial investigations should be initiated into all allegations of excessive use of force in places of detention and prisons[534].

In Egypt, Article 126 of the Penal Code punishes any public official or employee who orders the torture of an accused person or does so himself to force him to confess. He shall be punished by rigorous imprisonment or imprisonment from three to ten years.

If the victim dies, he shall be sentenced to the penalty prescribed for intentional killing[535].

Every public official and every person assigned to a public service who orders the punishment of the convict or punishes him himself with a punishment more severe than the penalty imposed on

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([528]) Principle 23 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rules 64-67 and 69 of the European Prison Rules.

([529]) CPT: Czech Republic, 8) §46 ,CPT/Inf2009, Portugal 13) §92 ,CPT/Inf2009.

([530]) General Report 20 of the Committee for the Prevention of Torture, 28) §65- §84 ,CPT/Inf2010.

([531]) Committee for the Prevention of Torture: Portugal, 4) §14 ,CPT/Inf2013.

([532]) The Second General Report of the Committee for the Prevention of Torture, 3) §53 ,CPT/Inf92.

([533]) Principle 5(c) - (d) of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials..

Concluding [534]observations of the Human Rights Committee: Honduras,. UN Doc §8 (2006) CCPR/C/HND/CO/1, Paraguay, UN Doc. CCPR/C/pry/CO/2 §11 (2005); see Concluding Observations of the Human Rights Committee: Greece, §9 (2005) UN Doc. CCPR/CO/83/GRC, Moldova, / UN Doc. CCPR/C § §9 (2009) MDA/CO/2 and 11.

([535]) Article 126 of the Law Promulgating the Penal Code.

him by law or a penalty that has not been imposed on him shall also be punished with imprisonment. [536].

We will address the study of that crime, in a subsequent section when examining the criminal responsibility of police officers and personnel in Chapter Three of that research.

- Tools and Methods of Restriction

While the use of restraining devices and methods can sometimes be necessary, if other methods of control are not found, these remain susceptible to abuse and unjustified use or abuse can amount to torture or other ill-treatment, and can result in death or serious injury

International standards prohibit the use of metal chains or restraints, and regulate the use of other means of restraint, such as hand restraints and control vests [537].

Restraints should never be used against women during labor or childbirth or immediately thereafter [538].

Permitted instruments and methods of restraint may be used only when necessary and proportionate; they shall be continued only as strictly necessary, and shall never be used to inflict punishment on a detained person [539].

The use of some instruments and methods of restraint inherently involve cruel, inhuman and degrading treatment, and therefore physical electrocution belts should never be used [540].

The use of blindfolds should also be explicitly prohibited [541].

([536]) Article 127 of the Penal Code.

[537]See Special Rapporteur on Torture, 56/2004 / UN Doc. E/CN.4 . §45 (2003)

Concluding observations of the Human Rights Committee: Republic of Korea,. UN Doc §13 (2006) CCPR/C/KOR/CO/6; CAT Concluding Observations: Japan: §15 (2007) CAT/C/JPN/CO/1 (g); see CAT Concluding Observations: United States of America,. UN Doc §179 (2000) A/55/44 (e).

Rule 33 of the Standard Minimum Rules, and rule 68 of the European Prison Rules..

([538]) Rule 24 of the Bangkok Rules.

Concluding observations of the Human Rights Committee: United States of America, §33 (2006) UN Doc. CCPR/C/USA/CO/3/Rev/1; CPT General Report 10, 13) §27 ,CPT/Inf2000; CAT Concluding Observations: USA, / UN Doc. CAT/C/USA §33 (2006) CO/ 2; see Special Rapporteur on Torture,. UN Doc . §41 (2008) A/HRC/7/3.

([539]) Principle 5 of the Principles of Medical Ethics, Rules 33-34 of the Standard Minimum Rules, Rules 60/6 and 68/3 of the European Prison Rules, and Guideline 120 of the ICC Guidelines..

([540]) Committee for the Prevention of Torture: General Report 20, 15) §74 ,CPT/Inf2010, Hungary, 16) §120 ,CPT/Inf2010.

([541]) General Report 12 of the Committee for the Prevention of Torture, 15) §83 ,CPT/Inf2002; Special Rapporteur on Torture: 156 / §93 (2001) ,UN Doc. A.56 (f), §26 (2002) ,UN Doc. E/CN.4/2003/68 (g); Concluding observations of the Committee against Torture: Liechtenstein, §23 (2010) ,UN Doc. CAT/C/LIE/CO/3..

Amnesty International calls for the prohibition of dangerous restraints, including holding diphtheria, pressing on neck arteries or vessels, and handcuffing feet[542].

The use of restraints such as handcuffs during the process of legal arrest of a person usually does not amount to cruel, inhuman or degrading treatment if it is necessary (for example to prevent an individual from fleeing or from causing harm or damage), and if it does not involve the unreasonable use of force or exposure of the person in public[543].

But if restrictions are used without justification or necessity, or used in a way that causes pain and suffering, this amounts to cruel, inhuman or degrading treatment [544].

Restrictions must be removed at the time of the person's appearance before the court [545].

The European Court ruled that unnecessarily handcuffing the accused or placing him in a metal cage during the course of the trial amounts to degrading treatment [546].

Cases of restraint of the individual should be recorded, and the person restrained should be kept under continuous supervision [547].

- Self-inspection

Self-searches of detainees and prisoners must be necessary, reasonable and proportionate, must be organized under the provisions of national law and must be conducted in a manner consistent with the personal dignity of the inspected human being, and by trained staff of the same sex [548].

When a transgender person is searched, their request to be searched by a person of either sex should be respected

Subjective inspections of sensitive parts of the body should be exceptional and should only be carried out by appropriately trained personnel, or by a general practitioner, if requested by the

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([542]) Among other documents, Amnesty International, USA: "Less than deadly"? U.S. Use of Stun Weapons in Law Enforcement, Document No.: 2008/010/ AMR 51, p. 54 ,Rec.8.

See[543], e.g., European Court: Harutyuanian v. Armenia (34334/ 04), § 124- §129 (2010); Öcalan v. Turkey (46221/ 99), Grand Chamber (2005) 185- §184; see also Cabal and Bertrand v. Australia, Human Rights Commission, 1/ §8 (2003) UN Doc. CCPR/C/78/D/1020/2001.

([544]) European Court: Yagiz v. Turkey (27473) / 02), (48- § §46 (2007), Kashavilov v. Bulgaria (891) / 05), (40- § §38 (2011)); Kucherok v. Ukraine (2570) / 04), (145- §139 (2007), Stratije et al. v. Moldova §55- §59 (2007) , (8721/05 et al), Okhrimenko v. Ukraine (53896) / 07) §93- §98 (2009), Hanaf v. France (65436) / 01), (60- § §47 (2003)..

([545]) Rule 33 of the Standard Minimum Rules, and rule 68 (2) (a) of the European Prison Rules.

([546]) European Court: Harutyuanyan v. Armenia (34334) / 04), (2010) 129- §124; Ramishvili and Kokhridze v. Georgia (1704) / 06), (- §98 (2009) 102, Gorodnichev v. Russia (52058) / 99), (109- §105 (2007).

([547]) Concluding observations of the Committee against Torture: New Zealand,. UN Doc §9 ,CAT/C/NZL/CO/5; Second General Report of the Committee for the Prevention of Torture, CPT/Inf §53 ,(92)3.

([548]) Rules 19-21 of the Bangkok Rules, Principle 21 of the Principles for Persons Deprived of their Liberty in the Americas, and Rule 54 of the European Prison Rules.

Human Rights Committee General Comment 16, §8; CPT General Report 10, 13) §23 ,CPT/Inf2000; see Concluding Observations of the Committee against Torture: France, 6- §28 (2010) UN Doc. CAT/C/FRA/CO/4, Hong Kong, §10 (2008) UN Doc. CAT/C/HKG/CO/4..

detainee or prisoner. The general practitioner should normally not be the same person who provides medical care to the prisoner[549].

The Principles Relating to Persons Deprived of their Liberty in the Americas state that vaginal or anal searches must be prohibited by law[550].

Strip searches as well as subjective searches of sensitive parts of the body in a humiliating manner can constitute torture or other ill-treatment [551].

Alternative inspection methods should be developed to remove clothing with the intention of self-inspection or manual inspection, such as scanning devices [552].

The European Court found that the use of a tool to search the body of a suspect for the purpose of obtaining evidence of guilt in a drug-related crime - without being necessary, and in a manner that posed a risk to his health, while alternative, less humiliating methods of obtaining evidence could have been resorted to - constituted inhuman and degrading treatment of him [553].

j. Duty to investigate torture and right to a remedy and reparation for victims of torture

Individuals subjected to torture and other forms of ill-treatment must have access to accessible and effective remedies. In particular, States must ensure that allegations of torture are promptly, impartially, independently and thoroughly investigated, that victims have access to effective remedies and reparations, and that those responsible are brought to justice [554].

States must provide complaint mechanisms consistent with the right to an effective remedy [555].

Third [549]General Report of the Committee for the Prevention of Torture, 12) §73 ,CPT/Inf93; World Medical Association, Statement on Body Searches of Prisoners; Concluding Observations of the Committee against Torture: Hong Kong, / UN Doc. CAT/C §10 (2008) ،HKG/CO/4..

([550]) Principle 21 of the Principles Relating to Persons Deprived of their Liberty in the Americas..

Bodo [551]v. Trinidad and Tobago, Commission on Human Rights, / UN Doc. CCPR 5/ §6 (2002) C/74/D/721/1996 & 6/7; López Álvarez v. Honduras, Inter-American Court § §54 (2006) (12) & 107.

([552]) Rule 20 of the Bangkok Rules, Principle 21 of the Principles Relating to Persons Deprived of their Liberty in the Americas.

Concluding observations of the Committee against Torture: Hong Kong,. UN Doc §10 (2008) ,CAT/C/HKG/CO/4, France, 6- ,UN Doc. CAT/C/FRA/CO/4 . §28 (2010).

([553]) Glouh v. Germany (54810/ 00), Grand Chamber of the European Court .83- § §67 (2006).

([554]) Article 8 of the Universal Declaration, articles 2 and 7 of the International Covenant, articles 12-14 of the Convention against Torture, articles 5 and 7 of the African Charter, articles 5 and 25 of the American Convention, articles 8-9 of the American Convention against Torture, article 23 of the Arab Charter, articles 3 and 13 of the European Convention, articles 8-11 of the Declaration against Torture, guidelines 19-16, 40 and 49-50 of the Robben Island Guidelines, sections C(a) and M7 (g) - (j) of the principles of fair trial in Africa, article 18 of the American Declaration, and principle 5 of the principles relating to persons deprived of their liberty in the Americas.

General Comment 31 of the Human Rights Committee, 16- § §51; 14 Report of the Committee for the Prevention of Torture, 28 (36- §31),CPT/Inf 2004.

General [555]Comment 3 of the Committee against Torture, §23; see Concluding Observations of the Committee against Torture: Tunisia, 44 / §102 (1998) UN Doc. A/54..

Even without an explicit complaint from the victim, an investigation should be opened where there are reasonable grounds to believe that an act of torture or other ill-treatment has occurred [556].

The failure of the State to open an investigation into allegations of torture or other ill-treatment constitutes a violation of the right to an effective remedy and the right not to be subjected to torture or other ill-treatment[557].

Victims and their lawyers must have access to all relevant information, attend any hearings concerning their complaints and have the right to present evidence. Victims and witnesses must be protected from any reprisals or intimidation, including counter complaints, as a result of their complaints [558].

Any person suspected of involvement in acts of torture and other ill-treatment must be removed from any position that allows them to control or exercise any authority over complaints, witnesses and investigators[559].

State representatives suspected of having committed torture or other ill-treatment should be suspended from their duties during the investigation [560].

The investigation should include a medical examination of the victim of torture; where the medical examination shows that the person is suffering from injuries that were not present at the time of his arrest, he should be presumed to have been ill-treated while in detention [561].

A person who has been tortured or otherwise ill-treated is entitled to obtain redress for the harm suffered, regardless of whether the persons responsible for the torture have been identified and brought to justice [562].

([556]) Article 12 of the Convention against Torture and Principle 2 of the Istanbul Protocol.

CAT General Comment 3, §27, Concluding Observations: Peru, 44 / § §169 (2001) ,UN Doc. A/56 and 172; see, e.g., Committee against Torture: Latif v. Tunisia, 2001/2003) UN Doc. CAT/C/31/D/89) 8/10-6/ §10, Blanco Abad v. Spain, 1996 / UN Doc. CAT/C/20/D/59 .8/8-2/ §8 (1998).

[557]See, e.g., Avadanov v. Azerbaijan, Commission on Human Rights, 5/9-3/ §9 (2010) UN Doc. CCPR/C/100/D/1633/2007; Aydin v. Turkey (94/23178), Grand Chamber of the European Court 103 § (1997)..

([558]) General Comment 3 of the Committee against Torture, 31- § §30; General Report 14 of the Committee for the Prevention of Torture, 28 39 § ,CPT/Inf 2004.

Article 13 of the Convention against Torture, and Guideline 7 of the Council of Europe Guidelines for the Eradication of Impunity; see Articles 12 and 18 (2) of the Convention on Enforced Disappearances.

Principle 3(b) of the Principles for the Investigation of Torture.

([559]) Principle 3(b) of the Istanbul Protocol..

([560]) Gavgen v. Germany (22978) / 05), Grand Chamber of the European Court §125 (2010); Special Rapporteur on Torture,. UN Doc §26 (2002) E/CN.4/2003/68 (k); Committee against Torture, e.g. El Salvador, §12 (2009) UN Doc. CAT/C/SLV/CO/2 (b); Concluding observations of the Human Rights Committee, e.g. Brazil, UN Doc. CCPR/C/79/Add.66 . §20 (1996).

([561]) Concluding observations of the Committee against Torture: Cyprus,. UN Doc §4 (2002) ,CAT/C/CR/29/1 (a); European Court: Aksoy v. Turkey §61 (1996) ,(93/21987); Salmouni v. France (25804/ 94), (1999) . §87.

Principle [562]9 of the Basic Principles on Reparation for Injuries, and Section 2(5) of the Council of Europe Guidelines on the Eradication of Impunity.

Reparation should include financial compensation and rehabilitation, including medical and psychological care, social and legal services, satisfaction and guarantees of non-repetition [563].

The compensation provided by the State to the victim must be sufficient to redress it; while the forms of reparation should be commensurate with the violations suffered [564].

It is not possible that the State has fulfilled the right of victims to a remedy and reparation by simply providing them with financial compensation, as the State must ensure that the investigation is able to identify the persons responsible and bring them to justice, so that they can be punished commensurate with the gravity of the violation they committed [565].

The State shall also not relieve offenders of their personal responsibility in such ways as pardoning them, paying compensation to the victim, immunities, or other similar measures [566].

III. The right to communicate with the outside world

Detainees have the right to promptly notify a third person that they have been arrested or detained, and their place of detention. Detainees have the right to promptly communicate with their families, lawyers and doctors and to be brought before a judicial official. If the detainee is a foreigner, he has the right to communicate with a consular officer representing his country, or with a competent international organization.

a. The right to communicate and receive visits

The rights of detainees to communicate with the outside world, and to receive visits, are basic guarantees that protect them from human rights violations such as torture and other forms of ill-treatment and enforced disappearance, and also affect the ability of the accused to prepare his defense, which is a necessary requirement to protect the right to private and family life, and the right to health, and detained and imprisoned persons have a right to communicate with the outside

General Comment 3 of the Committee against Torture, § §3 and 26.

The [563]Basic Principles on Reparation (in particular Principles 15-23), and Principle 16 of the Council of Europe Guidelines on the Eradication of Impunity.

General Comment 3 of the Committee against Torture, 17- § §15.

([564]) See, e.g., Siurab v. Moldova (No. 2) (7481) / 06), European Court (25- §24 (2010); Raxcaco-Reyes v. Guatemala, Inter-American Court (116- §114 (2005)).

([565]) General Comment 31 of the Human Rights Committee, § §15 and 18; General Comment 3 of the Committee against Torture, § §9 and 17, Guridi v. Spain, Committee against Torture, 2002/8/6-6/ §6 (2005) ,UN Doc. CAT/C/34/D/212; European Court: Gavgen v. Germany (22978) / 05), Grand Chamber 119 § (2010); Okali v. Turkey (52067) / 99), (78- §71 (2006); CPT General Report 14,) 28 § §31 ,CPT/Inf 2004 and 40 - 41.

([566]) General Comment 31 of the Human Rights Committee, §18; General Comment 2 of the Committee against Torture, §5; General Comment 3 of the Committee against Torture, 42- §40; Principles 19, 22 and 31-35 of the Updated Principles on Impunity.

world, and this right is subject only to reasonable conditions and restrictions commensurate with a legitimate purpose[567].

The Human Rights Committee has stated that the rights of persons in police custody and pre-trial detention to contact doctors, their families and their lawyers should be enshrined in law [568].

While the Committee against Torture calls for detainees to be allowed to contact a lawyer, a doctor and their families immediately after their detention, including while in police custody [569].

b. The right to inform a third person of the arrest and detention

Any person who is arrested, detained or imprisoned has the right to inform a person in the outside world that he has been detained, the place of his detention, or to be notified by the authorities on his behalf [570].

He is also entitled to inform a third person if he is transferred from the place where he is detained [571].

The right to notify a third party of detention should be ensured, in principle, as soon as they begin to police custody, and the third person should be informed immediately, or at least promptly [572].

In exceptional cases, notification procedures may be delayed, if the necessities of the investigation so require on an exceptional basis [573].

However, any such exceptions should be clearly defined in the law, absolutely necessary to ensure the effectiveness of the investigation, and for a strictly defined period of time. In any case, such delay should not last more than a few days [574].

([567]) Article 17 (2) (d) of the Convention on Enforced Disappearances, Rule 26 of the Bangkok Rules, Principle 19 of the Body of Principles, and Guidelines 20 and 31 of the Robben Island Guidelines; see Rule 38 of the Council of Europe Rules for Pre-Trial Detention, and Rules 99 and 24 of the European Prison Rules.

Concluding [568]observations of the Human Rights Committee: Central African Republic, UN Doc. CCPR/C/CAF/CO/2) §200614 , Sweden,.UN Doc .CCPR/C/SWE/CO/6) §200913.

Concluding [569]observations of the Committee against Torture: Russian Federation, §8 (2002) UN Doc. CAT/C/CR/28/4b, Uzbekistan, / UN Doc. CAT/C §6 (2002) 7/CR/28 (f), Morocco, 2/ §6 (2004) UN Doc. CAT/C/CR/31 (c); see SPT Standards, 3) CPT/ ,§36 ,CPT/Inf/) 92 §40 ,Inf (2002)15; UNGA Resolution 65/205, §20.

([570]) General Comment 2 of the Committee against Torture, §13; Recommendation Rec (2012) 12 of the Committee of Ministers of the Council of Europe, Annex 2/§ 15.

([571]) Article 14 (3) of the Arab Charter, Rule 2(1) of the Bangkok Rules, Principle 16 (1) of the Body of Principles, Guideline 43§ 3 (c) of the Principles of Legal Aid, Guideline 20 (a) of the Robben Island Guidelines, Rule 92 of the Standard Minimum Rules, Section M(2) (e) of the Principles of Fair Trial in Africa, Principle 5 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 24/9 of the European Prison Rules; see Articles 17 (2) (d) and 18 of the Convention on Enforced Disappearance, and Article 10 (2) of the Declaration on Disappearance.

Concluding [572]observations of the Human Rights Committee: Thailand, / UN Doc. CCPR.

Principles [573]15, 16 (1) and 16 (4) of the Body of Principles, and Guideline 3 43§ (e) of the Principles of Legal Aid.

([574]) Special Rapporteur on Torture, / 39 / UN Doc. A/HRC/13 .§82 (2010) Add.5.

Any delay should be accompanied by guarantees that include the written reasons for the delay, and the approval of a senior police officer unrelated to the case, a member of the Public Prosecution or a judge [575].

The Human Rights Committee has made it clear that the deliberate failure of the authorities to disclose the fate of a person arrested for a prolonged period places the person, in fact, outside the protection of the law

In cases of enforced disappearance (where the State refuses to recognize the detention or conceals the fate and whereabouts of the person), the Committee has concluded that such practices constitute a violation of rights, including the right to be recognized as a person before the law [576].

The European Court declared that unacknowledged detention "is a complete negation" and a "most serious violation" of the right to liberty [577].

It also concluded that the State's failure to enact legislation guaranteeing the right of persons detained by the police to notify their families or others of their detention constitutes a violation of the right to private and family life [578].

Detainee records are an additional safeguard against ill-treatment of persons deprived of their liberty, and information on such records should be accessible to persons with a legitimate interest in accessing them, including families of detainees, lawyers, and judges [579].

c. Incommunicado detention

Detention without access to the outside world - that is, incommunicado detention - facilitates torture and other ill-treatment, enforced disappearance and, depending on the circumstances, can in itself constitute torture or cruel, inhuman or degrading treatment

The Inter-American Court considers that prolonged isolation and incommunicado detention constitute, in themselves, cruel and inhuman treatment and ruled that the incommunicado detention of two persons - one for four days and the other for five days - constituted a violation of their right to humane treatment [580].

([575]) General Report 12 of the Committee for the Prevention of Torture, 15) §43 ,CPT/Inf)2002 ..

([576]) Commission on Human Rights: Griouh v. Algeria, / UN Doc. CCPR 9/7-8/§ 7 (2007) C/90/D/1327/2004 , Jabrouni v. Algeria, .UN Doc 9/§8 (2011) CCPR/C/103/D/1871/2008; see general comment 11 of the Working Group on Enforced Disappearances on the right to recognition before the law, §42.

([577]) Kurt v. Turkey (24276 / 94), European Court §124 (1998).

([578]) Surrey and Chulak v. Turkey (92596 / 98 and 42603/ 98), European Court §37-§32 (2006).

[579]See Concluding Observations of the Human Rights Committee: Algeria,.UN Doc .§11 (2007) CCPR/C/DZA/CO/3.

([580]) Inter-American Court: Cantoral-Benavides v.Peru (83§ §)2000; Chaparro Alvarez and Labo Iñiguez v. Ecuador (172-166§ §)2007.

The Committee against Torture expressed concern about a law allowing incommunicado detention for 48 hours before bringing a person before a judge in Cambodia[581].

Some international standards and several human rights bodies and mechanisms explicitly affirm that incommunicado detention should be categorically prevented [582].

While other international standards and expert bodies do not categorically prohibit incommunicado detention, they only allow some limitations and delays in granting detainees access to the outside world in exceptional circumstances, and for a very short period of time

As the length of incommunicado detention increases, so does the risk of additional human rights violations. Prolonged incommunicado detention is incompatible with the right of all detainees to be treated with respect for their human dignity and with the duty to prohibit torture or other ill-treatment or punishment [583].

Incommunicado detention may also constitute a violation of the rights of family members [584].

The African Commission concluded that detaining an individual without allowing him any contact with his family, and refusing to inform the family whether this individual is detained or not, and the place of his detention, constitutes inhuman treatment of both the detainee himself and his family members [585].

The Inter-American Court ruled that detaining a woman accused of acts related to terrorism for one month in isolation from the outside world, followed by restricting the visits she receives, constituted a violation not only of her human rights, but also of her immediate relatives, including her children [586].

([581]) Concluding observations of the Committee against Torture: Cambodia, . UN Doc 6§ (2003)CAT/C/CR/31/7 (j)..

([582]) Guiding Principle 24 of the Robben Island Guiding Principles, and Principle 3 of the Principles Relating to Persons Deprived of their Liberty in the Americas.

CHR General Comment 20 § 11; Special Rapporteur on Torture: 156/39 § 2001)UN Doc. A/56); Concluding observations of the Committee against Torture: Yemen, 2010)UN Doc. CAT/C/YEM/CO.2/Rev.1 (12§ , El Salvador 20§)2009)UN Doc. CAT/C/SLV/CO/2; UN Special Rapporteur on Human Rights and Counter-Terrorism: Spain, UN 32§ § (2008)Doc. A/HRC/10/2/Add.2 and 62; Concluding observations of the Human Rights Committee: Syria, 9§ (2005)UN Doc. CCPR/CO/84/SYR , Spain, .14§)2009)UN Doc. CCPR/C/ESP/CO/5..

([583]) Inter-American Court: Chaparro Álvarez and Labo Iñiguez v. Ecuador (171§)2007 , Maritza Urrutia v. Guatemala (87§)2003 , Cantoral-Benavidesv. Peru (84-83 §§)2000; see Human Rights Committee: Concluding Observations: Chile, 11§ (2007)UN Doc. CCPR/C/CHL/CO/5 , Womah Mukong v. Cameroon, 1991/1994)UN Doc. CCPR/C/51/D/458) 4/9§ , Al-Megreisi v. Libyan Arab Jamahiriya, / UN Doc. CCPR 4/5§ 1994)C/50/D/440/1990 , Polay Campos v. Peru, . UN Doc 4/8§ 1997) CCPR/C/61/D/577/1994; see also, UN GA Resolution 65/205, 21§; HRC Resolution 8/8 7§ (c); OHCHR Resolution 38/1997 (20§)1997..

([584]) Commission on Human Rights: Bashasha v. United Arab Jamahiriya, UN 5/7-4/7 § (2010)Doc. CCPR/C/100/D/1776/2008 , Concluding Observations: United States of America, 2006)UN Doc. CAT/C/USA/CO.3/Rev.1) .12§..

([585]) Amnesty International and Others v. Sudan (48/90, 50/91, 52/91 and 89/93), African Commission, Annual Report 13 (54§)1999 .

([586]) De la Cruz-Flores v. Peru, Inter-American Court (2004) .136-125 §§..

The Fair Trial Principles in Africa state that a confession or confession obtained under duress while in incommunicado detention should not be considered and should therefore be excluded from the list of evidence in the case at hand [587].

d. The right to contact the family

Detainees, including those in police custody or awaiting trial, should be provided with all reasonable facilities to contact and receive visits from their families and friends [588].

Restrictions or supervision of visits are permitted only in the interest of justice or the necessities of security and good order in the institution [589].

The right to receive visits applies to all detainees, regardless of the nature of the offence they were suspected of having committed or the charge against them [590].

The denial of visits may amount to inhuman treatment. Furthermore, the European Court, the African Commission and the Inter-American Commission have made it clear that the circumstances or procedures relating to visits must not infringe other rights, including the right to private and family life.

The European Court has affirmed that laws or regulations that lack sufficient precision, so as to allow unreasonable restrictions on family visits, violate the right to private and family life

Restrictions shall be imposed only in accordance with the law and shall be necessary and proportionate to the national security or public safety, the prevention of crime, the prevention of disturbance of public order, the protection of public health or morals, the protection of the rights and freedoms of others, or the safeguarding of the economic integrity of the country[591].

([587]) Section N(6) (d) (1)of the Principles of Fair Trial in Africa..

([588]) Article 17 (2) (d) of the Convention on Enforced Disappearances, Article 17 (5) of the Migrant Workers Convention, Article 16 (2) of the Arab Charter, Rules 28-26 of the Bangkok Rules, Guideline 31 of the Robben Island Guidelines, Rule 92 of the Standard Minimum Rules, Section M (2) (e) of the Principles for a Fair Trial in Africa, Principle 5 of the Principles Relating to Persons Deprived of their Liberty in the Americas, Rules 24 and 99 of the European Prison Rules, and Guideline 100 (1) of the ICC Guidelines.

Second General Report of the Committee for the Prevention of Torture, CPT/Inf (92) 3, §51; Nuri Özen et al. v. Turkey (15672/08 et al.), ECtHR 59§ (2011).

([589]) Principle 19 of the Body of Principles, Rule 92 of the Standard Minimum Rules, Section M[2] [g] of the Fair Trial Principles in Africa, Rule 24 of the European Prison Rules, and Guideline 100 [3] of the ICC Guidelines.

([590]) See Mark Romulus v. Haiti [Case 1992], American Commission [1977].

([591]) Civil Rights Organization v. Nigeria [151/96], African Commission, Annual Report 13 [27§ [1999.

African Assembly of Malawi et al. v. Mauritania [54/91, 61/91, 93/98 , 97/164 to 196/97 and 210/98], 13 th Annual Report of the African Commission 124-123 §§ [2000].

X and Y v Argentina , American Commission (1996) § § 99-98.

European Court: Gradec v. Poland [39631/ 06], [2010] 48-45§ § , Anubrio v. Cyprus [24407/ 04], [97-91§ § § [2010 , Kucera v. Slovakia [48666 / 99], [134-125 § §§ [2007 , Baginski v. Poland 99-86 §§ § [2005] ,[97/37444]..

The European Court found that allowing two short visits per month in a room where the detainee, his wife and child were separated by a glass barrier, constituted a violation of the right to private and family life

In making its judgments, the Court took into account whether other alternatives, including supervised visits, were considered as more appropriate [592].

The Inter-American Court declared that the imposition of severe restrictions on family visits has resulted in a violation of the rights of family members [593].

It also pointed out that it is the duty of the State to pay special attention to ensuring that women in detention or imprisonment are allowed to receive visits from their children [594].

The Bangkok Rules require authorities to encourage women's contact with their families, including children, and to take measures to rebalance the situation faced by women held in institutions far from their homes [595].

However, the small number of detention facilities for women in most countries has raised concerns about the obstacles that long distance travel creates to the difficulties and expenses incurred by family members when visiting their detained relatives.

The duty to facilitate family visits requires the authorities to ensure that there are adequate facilities for such visits in places of detention [596].

The Bangkok Rules also require States to ensure that visits involving children are organized in such a way as to provide an environment that leaves children with positive impressions and allows direct communication between the mother and her child. They also require prison staff who inspect children visiting detention facilities to treat them with respect and the necessary sensitivity [597].

e. The right to use doctors and health care in police custody

Persons deprived of their liberty have the right to be examined by a doctor as soon as possible and, if necessary, to receive free health care and treatment [598].

([592]) European Court: Moiseev v. Russia [62936 / 00], [2009] 247-246§ § and 252-259, cf. Messina v. Italy [No. 2] [25498 / 94], .74-61 §§ [2000]..

([593]) De la Cruz-Flores v. Peru, Inter-American Court [2004] .136-135 §§..

([594]) Miguel Castro - Castro Prison v. Peru, Inter-American Court .330§ [2006]..

([595]) Rule 26 of the Bangkok Rules..

([596]) Rule 92 of the Standard Minimum Rules..

([597]) Rules 28 and 21 of the Bangkok Rules..

([598]) Article 14 (4) of the Arab Charter, Principle 24 of the Body of Principles, Rule 24 of the Standard Minimum Rules, Guidelines 20 (d) and 31 of the Robben Island Guidelines, Principles 9(3) and 10 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 42 of the European Prison Rules.

Concluding observations of the Committee against Torture: Cameroon, . UN Doc 4§ § (2003) CAT/C/CR/31/6 (b) and 8(d).

This right is an integral part of the duty of the authorities to respect the right to health and to ensure respect for human dignity [599].

The Human Rights Committee has stated that the protection of detainees requires that every detainee be allowed to have prompt and regular access to doctors [600].

The United Nations General Assembly and its Human Rights Council have also stressed the importance of detainees receiving prompt and regular medical care to prevent torture and other forms of ill-treatment[601].

Those in police custody should be informed of their right to be seen by a doctor [602].

Police officers should not scrutinize requests to see a doctor [603].

The Committee against Torture and the Subcommittee on Prevention of Torture have stressed that doctors who order mandatory medical examinations in police stations should be independent of the police authorities, or the detained person should choose the doctor who examines him himself [604].

Women have the right to be examined or treated by a female doctor at their request where possible, except in cases where urgent medical intervention is required.

A female employee must be present if the detained woman is examined by a male doctor or nurse against her wishes [605].

The Special Rapporteur on torture explained that doctors should not examine detainees for the purpose of determining their "eligibility for interrogation" [606].

In order to ensure confidentiality, medical examinations should not, as a rule, be conducted under the hearing or sight of police officers. However, in exceptional cases, and if requested by the doctor, special security arrangements may be considered, such as having a police officer nearby

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([599]) See Congo v. Ecuador (11.427) (American Commission) -47§ § (1998 48 and 63-68).

([600]) General Comment 20 of the Human Rights Committee 11§..

([601]) For example, Resolution 65/205 of the United Nations General Assembly, 20§; Resolution 13/19 of the Human Rights Council, 5§ (2010).

([602]) Section M(2) (b) of the Fair Trial Principles in Africa, and Guideline 20 of the Robben Island Guidelines; see Principles 13 and 24 of the Set of Principles..

([603]) Subcommittee on Prevention of Torture: Sweden, / UN Doc. CAT/OP .64§)2008(SWE/1..

([604]) General Comment 2 of the Committee against Torture, 13§ , and the Concluding Observations of the Committee against Torture: Hungary, 8§ (2006) UN Doc. CAT/C/gun/CO/4 , Argentina, 1/ 6§ § (2004) UN Doc. CAT/C/CR/33 (m) and 7(m), Article 20 Report: Mexico, 219§ § (2003) UN Doc. CAT/C/75 (i) and 220 (j); see also Second Annual Report of the Subcommittee on Prevention, UN.24§ (2009) Doc. CAT/C/42/2..

([605]) Rule 10 (2) of the Bangkok Rules..

([606]) See Principle 4 of the Principles of Medical Ethics.

Special Rapporteur on Torture, 156/2001) UN Doc. A/56) .(1)39§..

who can see what is happening without hearing, except when called by the doctor. The doctor must indicate any such arrangements made in the medical examination record)[607].

Law enforcement officials have a duty to ensure the protection of the health of the persons they detain and to provide assistance and medical aid to any injured or injured person wherever necessary [608].

In this context, the European Court ruled that a state had violated the right to life of a man who had been shot in the head before being arrested and died 24 hours after being taken into police custody without being seen by a doctor, as the authorities assumed that he was drunk [609].

Detainees have the right to access medical records and to request the opinion of a second doctor on their condition [610].

Individuals who allege that they have been subjected to torture or ill-treatment should be examined by an independent doctor, in a manner consistent with the provisions of the Istanbul Protocol [611].

f. Rights of Foreign Nationals

Foreign nationals detained in connection with cases shall be accorded all reasonable facilities to communicate with and receive visits from representatives of their Government and, if they are refugees under the protection of a competent intergovernmental organization, shall be entitled to communicate with and receive visits from its representatives or those of the State in which they reside [612].

This right is also enshrined in treaties that establish duties for States to investigate and prosecute crimes under international law [613].

Such contact shall only be made upon the consent of the detained person.

([607]) Concluding observations of the Committee against Torture: Austria, . UN Doc 13§ (2005) CAT/C/aut/CO.3 , Turkey, UN Doc. CAT/C/TUR/CO.3 11§ (2010); SPT: Maldives, UN 111 §) 2009(Doc. CAT/OP/BDV/1; Committee for the Prevention of Torture: General Report 12 , 42§ ,CPT/Inf/)2000(15 , Lithuania, 22) 20-19§ ,CPT/Inf/)2009.

([608]) Article 6 of the United Nations Code of Conduct for Law Enforcement Officials.

([609]) Yasinskis v. Latvia (45744 / 08) European Court (67§ (2010)..

([610]) Principles 25 and 26 of the Set of Principles..

Concluding [611]observations of the Human Rights Committee: Hungary, / UN Doc. CCPR/C/14§ (2010) Hun/CO/5; Report of the Committee against Torture under article 20 : Mexico, 220§ (2003) UN Doc. CAT/C/75..

([612]) Article 36 of the Vienna Convention on Consular Relations, Article 17 (2) (d) of the Convention on Enforced Disappearances, Article 16 (7) of the Migrant Workers Convention, Article 10 of the Declaration on Non-Citizens, Rule 38 of the Standard Minimum Rules, Rule 2(1) of the Bangkok Rules, Section M(2) (e) of the Fair Trial Rules in Africa, Principle 5 of the Principles Relating to Persons Deprived of their Liberty in the Americas, and Rule 37 of the European Prison Rules (applicable to persons detained pending trial and to prisoners).

See International Court of Justice: LaGrand (Germany v. United States of America) (77§ ,(2001), Avena and Other Mexican Nationals (Mexico v. United States of America) (50§ (2004).

([613]) For example: Article 6(3) of the Convention on Enforced Disappearances, Article 15 (3) of the Council of Europe Convention on the Prevention of Terrorism..

Consular representatives may assist the detained person through various measures of defense, such as providing, maintaining or monitoring legal representation, obtaining evidence from the source country, and monitoring the conditions of detention of the accused person [614].

Given the assistance and protection that such representatives can provide, the right of detained individuals to communicate with and receive visits from representatives of their consular countries should be available to persons who are nationals of the State that arrested or detained them and the foreign State of which they are nationals [615].

If a person is a national of two foreign countries, Amnesty International is of the opinion that they should be given facilities to contact and receive visits from representatives of both countries, if they so choose

The Inter-American Court and the Inter-American Commission have concluded that failure to respect the rights of a detained foreign national to consular assistance amounts to a serious violation of fair trial rights and in cases where the defendants are likely to be sentenced to death, this constitutes a violation of the right to life [616].

IV. The right of members of the Public Prosecution and the presidents and agents of the courts of first instance and appeal to visit reform centers in their jurisdictions

Article 42 of the Code of Criminal Procedure stipulates that: "Members of the Public Prosecution and the presidents and agents of the courts of first instance and appeal may visit the public and central prisons in their jurisdictions and ensure that there is no illegal detainee. They may view the prison books and arrest and detention orders, take copies of them, contact any detainee and hear from him any complaint he wants to make to them. The director and staff of prisons shall provide them with all assistance to obtain the information they request."

When conducting inspections of correctional centers, whether public or geographical, the Public Prosecution shall verify that the orders of the prosecution and the investigating judge in the cases that he is assigned to investigate and the decisions of the courts are being implemented in the manner indicated therein, and that there is no inmate unlawfully [617].

This is done by reviewing the detention or arrest orders or the written orders to deposit for the detainee or the execution forms, and confirming that there is a summary of them in the records of the reform center and requesting copies of the detention order if it is found that he is not present. If the member of the prosecution is found detained or detained illegally, he shall order his release immediately after writing a report proving the incident and indicating in the report the hour and

(614) Advisory Opinion 99 / OC-16, Inter-American Court (86§ (1999).

(615) See Rule 27 (2) of the Council of Europe Rules for Pre-Trial Detention.

(616) Advisory Opinion 99 / OC-16, Inter-American Court (137§ (1999); Fierro v. United States (11.331), American Commission (37§ § (2003 and 40..

(617) Article 1748 of the Judicial Instructions of the Public Prosecution..

date of the procedure and the person and signature of the recipient of the release order. If the member of the prosecution is found detained or detained in a place other than the place designated for him, he shall immediately write a report of the incident and order his deposit in the place designated for him with proof of this in the report explaining the hour and date of the procedure and the person and signature of the recipient of the deposit order. He may complete the inspection report upon his return to the headquarters of the prosecution and include the crimes and irregularities he observed, provided that he notifies the Attorney General of the Public Prosecution of the Appeals[618].

A penalty of imprisonment or a fine not exceeding two hundred Egyptian pounds shall be imposed on anyone who arrests, imprisons or detains any person without the order of one of the competent rulers and in cases other than those authorized, and the punishment shall be imprisonment in the event that the arrest is made by a person who unlawfully dresses as a government employee or is characterized by a false status or presents a forged order claiming to be issued by the government, he shall be punished by imprisonment[619].

In all cases, whoever unlawfully arrests a person and threatens him with death or tortures him with physical torture shall be punished with rigorous imprisonment [620].

Any person who lends a place of confinement or detention that is not permitted shall be punished by imprisonment for a period not exceeding two years with knowledge of this[621].

V. The right of the inmate to complain, and the right of anyone who knows about the existence of an illegal detainee to notify the Public Prosecution

Article 43 of the Code of Criminal Procedure stipulates that: "Every prisoner has the right to submit at any time to the prison warden a complaint in writing or verbally and ask him to report it to the Public Prosecution - and the warden must accept it and report it immediately after proving it in a record prepared for this in the prison

Anyone who learns of the existence of an illegal detainee or in a place not designated for imprisonment may notify a member of the Public Prosecution - and as soon as he learns of this, he must immediately move to the place where the detainee is held, conduct the investigation, and order the release of the illegal detainee - and he must draw up a record of this. "

The director of the Correction and Rehabilitation Center shall accept any serious complaint from the inmate, whether oral or written, and inform it to the Public Prosecution or the competent authority after recording it in the register prepared for complaints, provided that the concerned departments, in coordination with the Human Rights Department in the Community Protection

(618) Articles 1749 and 1749 bis of the Judicial Instructions of the Public Prosecution.

(619) Article 280 of the Penal Code, as amended by Law No. 29 of 1982.

(620) Article 282 of the Penal Code.

(621) Article 281 of the Penal Code.

Sector, receive and examine the complaints of inmates and notify the complainant of the result of the examination [622].

The competent employee of the Public Prosecution shall implement the orders of the Director of the Public Prosecution or its head to send the grievances submitted by the convict to the Public Prosecution because of their placement in a reform center instead of another reform center to the Assistant Attorney General's Office to take the necessary action in this regard [623].

In military prisons, the prison warden is obligated to accept serious complaints submitted by prisoners verbally or in writing, but on the other hand, the law or internal regulations did not require him to report that complaint to any other party, but the legislator left this to his discretion. He has the right to report complaints to the competent authorities according to the circumstances of each complaint [624].

Within the framework of international conventions, any detained or arrested person may file a grievance against the exercise of the powers of arrest or detention before a judicial authority or any other authority [625].

A detained person accused of a criminal charge may make a statement about the treatment he received during his detention before the authority conducting the investigation [626].

Any detained or imprisoned person or his or her counsel, or any family member of the detained or imprisoned person or any other person with knowledge of the case if the detainee or his or her counsel is unable to do so, shall have the right to make a request or complaint concerning his or her treatment to the authority responsible for the administration of the place of detention and to higher authorities, in particular in the case of torture or other cruel, inhuman or degrading treatment, and, where appropriate, to the appropriate authorities vested with powers of review or redress.

Provided that the request or complaint shall be kept confidential if the complainant requests it, and each request or complaint shall be decided upon expeditiously and responded to without undue delay. In the event that the request or complaint is rejected or an excessive delay occurs, the complainant shall have the right to submit this to a judicial or other authority.

([622]) Article 80 of the Law Regulating Correction and Community Rehabilitation Centers, as amended by Law No. 106 of 2015, and Article No. 85 bis 1 of the Internal Regulations of Correction and Rehabilitation Centers, added by the Minister of Interior Resolution No. 3320 of 2014.

([623]) Article 1049 of the written, financial and administrative instructions of the Public Prosecution.

([624]) Article 56 of the Internal Regulations of Military Prisons.

([625]) Principle No. 9 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

([626]) Principle No. 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

It is prohibited for a detainee, prisoner, or any plaintiff to suffer harm as a result of submitting a request or complaint [627].

Every prisoner or his lawyer must be given the opportunity to submit on any day a request or complaint to the prison director or his authorized representative, as well as to allow prisoners to submit requests or complaints to the prison inspector during his inspection tour of the prison, and the possibility of talking to the inspector freely and in full confidentiality without the presence of the prison director or any of his staff.

Each prisoner or his lawyer may submit a request or complaint regarding his treatment to the Central Prison Administration, the judicial authority, or other competent authorities, including those authorized to review or correct, and a member of the prisoner's family or any other person familiar with the case may submit requests and complaints in cases where the prisoner or his lawyer is unable to do so [628].

Any detained person shall be compensated for the damage resulting from any acts of a public official that are incompatible with his rights, or any omission that is incompatible with their rights[629].

Each juvenile must also be given the opportunity to submit requests or complaints to the director of the custodial institution or whoever he authorizes to do so [630].

Every juvenile should also have the right to submit a request or complaint to the central administration, the judicial authority or other competent authorities through the approved channels, and to be notified of what has been done in their regard without delay [631].

Efforts must be made to establish an independent office Ombudsman) to receive and examine complaints submitted by juveniles deprived of their liberty and to help reach fair settlements for them [632].

Every juvenile shall have the right to seek assistance, where possible, from family members, legal advisors, charitable or other groups in order to file a complaint. Assistance is provided to illiterate juveniles if they need the services of public or private bodies and organizations that provide legal advice or are competent to receive complaints [633].

([627]) Principle No. 33 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

([628]) Rule No. 36 of the Standard Minimum Rules for the Treatment of Prisoners, Rules No. 56, 57 of the Nelson Mandela Rules.

([629]) Principle No. 35 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

([630]) Rule No. 75 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

([631]) Rule No. 76 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

([632]) Rule No. 77 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

([633]) Rule No. 78 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

If the Egyptian legislator has obligated the director of the reform center to report the complaint of the inmate to the Public Prosecution or the competent authorities, but he stipulated that these complaints must be serious, and it is up to the director of the reform center himself to assess the seriousness of the complaint according to the circumstances of each complaint.

Fourth: Distinguishing between arrest and detention

1- Suspension is permissible with the knowledge of the public authority

It is permitted to arrest with the knowledge of any member of the public authority, even if he is not a judicial police officer, while it is not permitted to arrest without the knowledge of judicial police officers and investigative authorities.

2- The permissibility of arrest on suspicion of all crimes

The arrest does not require the existence of one of the crimes stipulated in Article 34 of the Criminal Procedure Law, but it is permissible upon suspicion of the availability of any felony or misdemeanor.

3- The arrest itself does not permit the search of the accused

The arrest does not permit the search of the person of the accused, unlike the arrest, which itself permits the search.

4- Suspension is an inference procedure, not an investigation

Suspension is not an investigation procedure, but it is an inference procedure owned by men of public authority as an exception.

5- Suspension does not allow detention

The correct legal arrest allows the detention of the accused for a period of 24 hours by the judicial officers, while the arrest does not allow more than taking the suspect to the nearest judicial officers to verify and clarify his case.

Subsection 6: Seizure and Subpoena

Article 35 of the Criminal Procedure Law stipulates that: "If the accused is not present in the cases described in the previous article, the judicial officer may issue an order to seize and bring him, and this shall be mentioned in the record.

Or in cases other than those specified in the previous article, if there is sufficient evidence that a person has been accused of committing a felony or misdemeanor of theft, fraud, or severe assault and resistance to the men of public authority by force and violence, the judicial officer may take the appropriate precautionary measures and immediately request the Public Prosecution to issue an arrest warrant against him.

In all cases, the orders of seizure, habeas corpus and precautionary measures shall be executed by one of the bailiffs or by the men of the public authority. "

It is clear from the text of Article 35 of the Criminal Procedure Law that if the accused is not present in cases of flagrante delicto or misdemeanors punishable by imprisonment for a period of more than three months, the judicial officer may issue an order to arrest and bring him, and this shall be mentioned in the record.

In addition, in cases other than cases of flagrante delicto that are punishable by imprisonment for a period exceeding three months, the judicial officer may take appropriate precautionary measures and immediately request the Public Prosecution to issue an arrest warrant against any person who has sufficient evidence to charge him with a felony or misdemeanor of theft, fraud, severe assault, and resistance to the men of public authority by force and violence. In all cases, the orders of arrest, habeas corpus, and precautionary measures shall be executed by one of the bailiffs or by the men of public authority.

However, this order must be executed within six months from the date of its issuance, unless approved by the judicial officer for another period, as the second paragraph of Article 139 of the Code of Criminal Procedure stipulates that: It is not permitted to execute arrest and habeas corpus orders and detention orders after the lapse of six months from the date of their issuance unless they are approved by the investigating judge for another period. "This provision regarding arrest and habeas corpus orders issued by the investigating judge applies a fortiori to the judicial officer.

The reservation means placing the person at the disposal of the judicial officer until the matter of requesting his arrest is decided by the Public Prosecution.

In this regard, Article 35 of the Code of Criminal Procedure stipulates that: "If the accused is not present in the cases indicated in the previous article, the judicial officer may issue a warrant to arrest and bring him, and this shall be mentioned in the record, or in cases other than those indicated in the previous article, if there is sufficient evidence that a person has been accused of committing a felony or a misdemeanor of theft, fraud or severe assault and resisting the men of public authority by force and violence, the judicial officer may take appropriate precautionary measures, and immediately request the Public Prosecution to issue a warrant to arrest him.

In all cases, the orders of seizure, habeas corpus and precautionary measures shall be executed by one of the bailiffs or by the men of the public authority. "

The Constitution stipulates that no one may be arrested, searched, his freedom restricted in any way, or prevented from moving except by order of the competent judge or the Public Prosecution [634].

The Constitution also restricted the power of the judicial police to arrest and search and required the determination of the period of pretrial detention and its causes, and the cases of entitlement to compensation that the state is obligated to pay for pretrial detention, or for the implementation of

([634]) The first paragraph of Article 54 of the Constitution..

a sentence for which a final judgment was issued to annul the judgment executed under it, and thus it is not permissible to issue a pretrial detention order at all without time limit [635].

Article 34 of the Code of Criminal Procedure allows the judicial officer to order the arrest of the accused present in felonies in general without requiring that the crime be in flagrante delicto and allows this arrest in cases of flagrante delicto, whatever the punishment prescribed for it, as well as if the crime is a misdemeanor punishable by imprisonment, or the accused is under police surveillance, or he has been issued a warning as a vagrant or a suspect, or he does not have a fixed and known place of residence in Egypt, and finally in some specific misdemeanors stipulated in it.

Whereas Article 35 criminal procedures allows the judicial officer to order the arrest and bringing of the accused if the accused is not present, in the cases indicated in Article 34, which is the case of flagrante delicto or misdemeanors punishable by imprisonment for a period exceeding three months, to order the arrest of the present accused, for whom there is sufficient evidence to charge him.

If the text of Article 35 of the Criminal Procedure Law is to limit the crimes in which the judicial police officer may take the appropriate precautionary measures, which is to accuse a person of committing a felony or a misdemeanor of theft, fraud, or severe assault and to resist the men of public authority by force and violence, the first paragraph of Article 40 of the Anti-Terrorism Law added to these crimes the case of the existence of a danger from the dangers of the crime of terrorism, and limited the period of detention of the perpetrator of that crime to not more than twenty-four hours, stipulating that: "The judicial police officer, when there is a danger from the dangers of the crime of terrorism and the need to confront this danger, has the right to collect evidence about it, search for its perpetrators, and detain them for a period not exceeding twenty-four hours."

The seizure is a precautionary measure in which the judicial officer faces the case of the suspect who should be arrested, and awaits the order issued by the Public Prosecution in this regard. The seizure is not considered an arrest of the person, and therefore the arrest judgments do not apply to him, and the seizure officer is not authorized to search the person accordingly, without prejudice to his right to preventive inspection to strip him of the weapons he/she carries or .

According to the text of Article 35 of the Criminal Procedure Law, in cases other than flagrante delicto, if there is sufficient evidence that a person has been accused of committing a felony or a misdemeanor of theft, fraud, severe assault, or resistance to the men of public authority by force and violence, the judicial officer may take appropriate precautionary measures, and immediately request the Public Prosecution to issue an arrest warrant for him. The precautionary measures shall be carried out by one of the bailiffs or by the men of public authority.

([635]) Paragraph 5 of Article 54 of the Constitution..

It is clear from this that for a bailiff or a member of the public authority to take measures to detain the accused - in cases other than flagrante delicto - there must be sufficient evidence that he committed a felony or misdemeanor of theft, fraud, severe assault, or resistance to the members of the public authority by force and violence.

The judicial control officer has the right to conduct the arrest of the present accused for whom there is sufficient evidence of his accusation, without the need to order this from the investigating authority, and the assessment of these evidence and the amount of their sufficiency is initially for the judicial control officer, provided that this assessment is subject to the control of the investigation authorities and the trial court [636].

The Court of Cassation also ruled that it is not in the mere manifestations of confusion and confusion of the person, no matter how old they are, that provides sufficient evidence of his accusation of the flagrante delicto crime and then allows his arrest and search, and therefore the arrest and search that occurred on the appellant without a judicial order has occurred in a state other than flagrante delicto, and without sufficient evidence of his accusation of the crime, and therefore what happened to him is an explicit arrest that is not justified and has no basis in law [637].

The Court of Cassation ruled that the judicial police officer shall not, with regard to Article 66 of the Traffic Law, be subjected to the personal freedom of the driver of the vehicle, or order the examination of his condition by technical means except in the event of flagrante delicto, considering that flagrante delicto is a condition inherent in the crime and not the person of the perpetrator, and that the judicial police officer must be aware, in one of his senses, of the occurrence of the crime, with no doubt or interpretation. The judicial police officer did not realize, in any of his senses, that the appellant's condition of driving the vehicle was under the influence of an anesthetic, he is not in front of a crime in flagrante delicto, and does not take into account the testimony of the first witness that the appellant has voluntarily complied to take the sample; as the legally approved consent must be free and obtained from him before taking the sample, and after knowing the circumstances of taking the sample and having no justification that authorizes the appellant to perform it, he has not yet been subjected to the apprehension, and the sample has been taken for falling into a state of fraud. The evidence derived from them, and they must be excluded from a certificate of Ajara. Whereas, the invalidity of the arrest and the taking of the sample is legally required not to rely in the conviction on any evidence derived from them, and therefore the testimony of the person who carried out this invalid procedure is not considered [638].

([636]) See Appeal No. 78 of 25 S issued at the 4th session of April 1955 and published in the third part of the Technical Office letter No. 6 page No. 735 rule No. 239, Appeal No. 84 of 23 S issued at the 30th session of March 1953 and published in the second part of the Technical Office letter No. 4 page No. 672 rule No. 243.

([637]) Appeal No. 30689 of 71 s issued at the session of 13 October 2008 and published in the letter of the Technical Office No. 59 page No. 420 rule No. 77, Appeal No. 4371 of 70 s issued at the session of 9 March 2008 (unpublished).

([638]) Appeal No. 19177 of 86 S issued at the session of September 5, 2018; The facts of this case were that during the initiation of Captain/..... Officer at the Traffic Department..... His duties in the company of the chemist/..... To

The Court of Cassation ruled that it is legally established that the availability of the case of flagrante delicto is subject to the discretion of the trial court. It is legally sufficient to say that the case of flagrante delicto exists that there are external manifestations that predict the occurrence of the crime. Therefore, it is not required in the case of flagrante delicto that the person who witnessed these manifestations has found out what the material he witnessed and was arrested for the truth of its matter. The identification of its truth is only based on the investigations conducted in the case, and if there are external manifestations that predict the commission of a specific crime by a person, This requires the custodians to contact him to clarify a case, which is required by the nature of their functions and requirements. The occurrence of the case of flagrante delicto with the crime of drug acquisition allows the arresting officers who witnessed it to arrest without an order from the prosecution all those who have evidence of his contribution to it, whether he is a principal or a partner, to inspect it, and the judicial officer under the judicial authority authorized by Articles 34/1, 46 of the Criminal Procedure Law to arrest the present accused who has sufficient evidence to be charged with the felony of drug acquisition, and to search him without the need for an order from the investigation authority It is also established in the correctness of the law that flagrante delicto is a condition that accompanies the crime itself and not its perpetrator, and that the establishment of the state of flagrante delicto allows the arrest of all those who contributed to its commission and allows its search, and that it is established that the state of flagrante delicto requires that the judicial officer verify that the crime has been watched by himself or is aware of it with one of his senses, and it does not dispense with that receiving its news through transportation from others, whether a witness or an accused person acknowledging himself, as long as he did not witness it or witness one of its effects that predicts its occurrence [639] .

It ruled that it is sufficient for the state of flagrante delicto to have external manifestations that predict the occurrence of the crime, and it is not required in flagrante delicto to achieve the drug that those who witnessed these manifestations have shown what the material they saw, but it is enough to achieve these external manifestations with any sense of the senses, equal to that sense of smell or sense of sight [640] .

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monitor the application of the provisions of the Traffic Law, and during the examination of the driving licenses of the car..... My angel ... It was found that the driver of the car does not have a driver's license, and in case of imbalance and poor concentration, he voluntarily responded to provide a urine sample, and the head of the analysis committee decided to accompany the sample positive for cannabis, and in the face of the accused, he admitted to using cannabis.

([639]) Appeal No. 2410 of 86 S issued on March 24, 2018 (unpublished).

([640]) Appeal No. 32528 of 84 S issued at the 9th session of February 2017 (unpublished).

The Court of Cassation ruled that: [Whereas the court was satisfied with the testimony of the First Lieutenant..... That he smelled the cannabis drug emanating from a hookah that was held by one of the defendants convicted in absentia and the appellant was babysitting them enough for the availability of external manifestations that predict the occurrence of the crime of acquiring narcotic substances] Appeal No. 9166 of 65 S issued at the hearing of July 6, 1997 and published in the first part of the Technical Office's book No. 48 page No. 749 rule No. 114.

It also ruled that: [Whereas it is established from the records of the contested judgment that the appellant did not dispute that the officer presented ..... He did not arrest the appellant until after he saw him seeing the eye as soon as he took the amount of the bribe from the second witness and planted it in his pocket, which is considered a crime

It also ruled that the sight of the incident officer of the accused fleeing the ambush by turning back as soon as he saw them opposite to the direction of the road, he stopped him and the accused did not present any licenses, so he searched his person and the car. His driving found under the front seat a large piece of the substance of the narcotic hashish. This does not show that the judicial officer showed the essence of the narcotic, which he decided that the appellant was a guardian of him or that he realized it with any of his senses, in a way that does not indicate the availability of sufficient evidence or external manifestations that predict the occurrence of the crime and the state of flagrante delicto that allows the judicial officer to arrest and search. Whereas, the arrest of the appellant has occurred in a state other than flagrante delicto and without sufficient evidence of the validity of his accusation [641] .

It also ruled that the statement of the judgment - the appellant - in the course of his statement of the incident of the case and in his response to the plea of nullity of arrest and search that what the judicial officer raised from the arrest of the accused for merely informing the first witness of the evidence to him of the offer of the accused - the appellant - a counterfeit financial paper and his rejection of it without indicating the nature of this paper and the failure of the judicial officer to view it before the arrest and search of the appellant is a false arrest and search because they are not in a state of flagrante delicto and without permission from the Public Prosecution, and the contested judgment violated this consideration and justified the judicial officer to arrest and search the appellant and rely on the evidence derived from the statements of the two officers, it is wrongly flawed in the application of the law in a way that requires its reversal[642].

It also ruled that the mere observation of the judicial officer of the accused the appellant) holding a carton in his hand and showing signs of suspicion and suspicion is not sufficient to establish the state of flagrante delicto as long as he did not witness one of its effects that foretells its occurrence before the arrest was made, and what the judgment stated - according to the above context - was that the appellant was present inside a subway station.... As an establishment of vital importance, it has been implicitly accepted by the judicial officer - in order to be cautious and cautious - to search him administratively simply for holding a carton in his hand and showing signs of suspicion and suspicion, which is not true in the law, because it is established in the judiciary of this court that it is not from the mere manifestations of confusion and confusion, no matter how much it provides sufficient evidence to accuse him of the flagrante delicto crime and then allows his arrest

in a state of flagrante delicto that allows the officer to arrest and search him without permission from the Public Prosecution in this regard, there is no point in what the appellant raises by imposing his health in connection with the invalidity of a permit from the Public Prosecution to arrest and search him for lack of seriousness of investigations] Appeal No. 3708 of 65 BC issued at the session of 25 May 1997 and published in the first part of the Technical Office's book No. 48 page No. 642 rule No. 96..

([641]) Appeal No. 26133 of 86 S issued at the session of February 28, 2017 (unpublished), Appeal No. 44777 of 76 S issued at the session of November 25, 2010 and published in the book of the Technical Office No. 61 page No. 651 rule No. 84.

([642]) Appeal No. 18565 of 84 S issued at the session of April 11, 2016 and published in the book of the Technical Office No. 67 page No. 433 rule No. 50.

and search. Whereas, the arrest of the appellant has occurred in a state other than flagrante delicto, and therefore what happened to him is a false arrest, and if the contested judgment violated this consideration and the validity of this procedure was ruled, it is wrongly flawed in the application of the law in a way that requires its reversal[643].

It ruled that while the assessment of the circumstances surrounding the crime at the time of its commission and its adequacy for the occurrence of flagrante delicto is up to the trial court, this is conditional on the reasons and considerations on which the court bases its assessment being valid to lead to its conclusion. The image of the incident - as obtained by the contested judgment in its aforementioned blogs - did not indicate that the crime of acquiring the drug that the appellant was convicted of was in one of the cases of flagrante delicto described exclusively in Article 30 of the Criminal Procedure Law. On the other hand, it is not true in the law what was mentioned in the contested judgment as evidence of sufficient evidence of the existence of an accusation that justifies the arrest and search of the appellant that the manifestations of confusion have occurred as soon as the officer's opinion stops the car he was riding in to examine its licenses, because it is decided in the judiciary of this court that it is not in the mere manifestations of confusion and confusion of the person, no matter how much it provides sufficient evidence that he is accused of the flagrant crime and then allows his arrest and search. Also, what the judgment quoted from the officer that the appellant voluntarily opened the carton containing the drug does not achieve the meaning of consent to the inspection, as what the officer described as voluntarily is in fact the obedience of the appellant to his order to open the carton and does not achieve the meaning of consent considered in the law. Whereas, the arrest and search that occurred on the appellant without a judicial order has occurred in a state other than flagrante delicto and without sufficient evidence to charge him with the crime, and therefore what occurred against him is an explicit arrest that is not justified and has no basis in law. If the contested judgment violated this consideration and what he stated was a justification for dismissing the plea of nullity of the arrest and search procedures is not in accordance with the law and does not lead to what he arranged, it is wrongly defective in the application of the law[644].

It ruled that any restriction on personal freedom as a natural human right, equal to the restriction of arrest, search, detention, prohibition of movement or otherwise, may be made only in cases of flagrante delicto as defined by law, or with the permission of the competent judicial authorities, and the Constitution is the supreme positive law, which has precedence over the legislation below it, which must be subject to its provisions, and if it contradicts These and other provisions of the Constitution must be complied with and wasted, equal to the fact that the conflict was prior or subsequent to the implementation of the Constitution. Articles 34 and 35 of the Code of Criminal Procedure, as amended by Law No. 37 of 1972, allowed the judicial police officer in cases of

(643) Appeal No. 11501 for the year 83 S issued in the session of February 2, 2014 and published in the letter of the Technical Office No. 65 page No. 42 rule No. 4.

(644) Appeal No. 21782 of 74 S issued at the hearing of 16 October 2012 and published in the letter of the Technical Office No. 63 page No. 511 rule No. 87..

flagrante delicto punishable by imprisonment for a period of more than three months to arrest the accused present who has sufficient evidence to charge him with the crime. If he is not present, the judicial police officer may issue a warrant to arrest him and bring him. Article 46 of the same law allows the search of the accused in cases where he may be legally arrested. If the person may be arrested, he may be searched, and if he is not allowed to be arrested, he shall not be searched and the results of the false arrest and search shall be null and void, and it is established in the judiciary of this court that the state of flagrante delicto requires that the judicial officer verify that the crime has been witnessed by himself or that he is aware of it with one of his senses, and it is not indispensable to receive its news through narration or transmission from others, whether a witness or an accused person who confesses to himself, as long as he has not witnessed it or witnessed a self-evident trace of its effects. While the assessment of the circumstances surrounding the crime at the time of its commission or after its commission, and the assessment of its adequacy for the occurrence of flagrante delicto, is entrusted to the discretion of the trial court without comment, but this is conditional on the fact that the reasons and considerations on which the court based this assessment, are valid to lead to the result it reached when it was, and it was clear from what the judgment stated in the foregoing narrative that the second witness of evidence initiated the search of the appellants' car after he suspected the validity of its metal plate numbers, so he found a mobile phone under the spare tire of the car, and it was not clear what it contained. A drug only after it was dispersed to him, and therefore he was not in front of a crime in flagrante delicto, and therefore he was not entitled to subject the appellants to arrest or search or search the car they were traveling in without justification, but that he did, his action is illegal and involves deviation of authority, because although the judicial officer has the right to verify that cars on public roads do not violate the provisions of the Traffic Law, and in initiating this procedure, he performs the administrative role authorized by the law, except This is conditional on taking into account the controls of legitimacy prescribed for administrative work. He must target a public interest, have a basis in the law, abide by the limits necessary to achieve the purpose of the legislator by granting him this authority, and abide by the constitutional and legal rules in its exercise. Otherwise, his work is described as illegitimate and deviant by the authority. In addition, the judgment did not invoke the link between what the first prosecution witness said when he saw the appellants parked on the side of the road late at night and did not provide him with proof of their identity and license of the car, and the inspection conducted by the second prosecution witness, and he did not indicate either Whether the foregoing facts constitute a crime of misdemeanors in which the appellants may be arrested and then searched and their car searched accordingly or not, and what is supported by the judgment in the scope of the plea of nullity of the arrest and search procedures is that the appellants admitted in the record of the seizure and the investigation of the Public Prosecution with their possession of the seized narcotic substances, is not valid in response to the payment, because that acknowledgment is a new element in the lawsuit subsequent to the proceedings motivated by its nullity, it is not correct to take evidence of its validity, as the arrest and search of the appellants and their car - without obtaining a judicial order - is according to the image of the incident that the contested judgment obtained in its blogs in a

state other than flagrant misdemption of the crime that they were convicted of or the availability of sufficient evidence to charge them, and without clarifying whether the appellants had committed a misdemeanor, which allowed the arrest and search, and what the judgment stated was justification of the nullity of the arrest and search procedures - as well as its deficiency does not comply with the law and does not lead to it, but it is wrong in the application of the law[645].

The Court of Cassation also ruled that the mere fact that the appellant is from the family of the defendants wanted for arrest in a felony of murder and confused by what the men of the force saw and ran when the officer called him - assuming the validity of what the witnesses say in this regard - if it is permissible for the officer to arrest him, it is not considered sufficient evidence to charge him with a felony that justifies his arrest and search, and therefore the judgment, by ruling the validity of the arrest and search, has erred in the application of the law in a way that must be reversed[646].

It also ruled that watching the accused in the middle of the night carrying something and as soon as he saw the police car slowing down until he was locked back running, and that he took off his shoes to make it easier for him to run, sufficient evidence was available to justify his arrest in accordance with the law [647].

- Handing over the accused to the nearest men of public authority without the need for an arrest warrant

Article 37 of the Code of Criminal Procedure stipulates that: "Whoever witnesses the perpetrator in flagrante delicto or a misdemeanor in which it is legally permissible to detain him on remand may hand him over to the nearest men of public authority without the need for an arrest warrant."

Article 38 of the Criminal Procedure Law also stipulates that: "In flagrante delicto, in which imprisonment may be imposed, the men of public authority may bring the accused and hand him over to the nearest judicial officer. They may also do so in other flagrante delicto crimes if the identity of the accused cannot be known."

It is clear from this that Articles 37 and 38 of the Criminal Procedure Law allow non-judicial officers of individual people or men of the public authority to hand over and bring the accused to the nearest officer for judicial control in felonies or misdemeanors in which preventive detention or imprisonment is permissible, as the case may be, whenever the felony or misdemeanor is in a state of dress. This authority requires - in the foregoing context - that individual people or men of the public authority have custody of the accused or the body of the crime that he witnessed with him

(645) Appeal No. 18645 of 72 S issued at the session of November 8, 2009 and published in the book of the Technical Office No. 60 page No. 420 rule No. 57.

(646) Appeal No. 1763 of 28 S issued on January 27, 1959 and published in the first part of the Technical Office's letter No. 10, page No. 112, rule No. 25.

(647) Appeal No. 1347 of 28 BC issued at the session of December 29, 1959 and published in the third part of the book of the Technical Office No. 9 page No. 1122 rule No. 272.

or what contains this body, considering that such action is necessary and necessary to carry out the procedure established by law, in order to hand him over to the judicial officer[648].

([648]) See Appeal No. 4745 of 88 S issued at the session of November 4, 2018 (unpublished), Appeal No. 29358 of 86 S issued at the session of January 14, 2017 (unpublished), Appeal No. 20351 of 85 S issued at the session of December 7, 2016 and published in the letter of the Technical Office No. 67 page No. 872 rule No. 107, Appeal No. 2470 of 85 S issued at the session of March 9, 2016 and published in the letter of the Technical Office No. 67 page No. 302 rule No. 38, Appeal No. 645 of 85 S issued at the hearing of 14 December 2015 and published in the letter of the Technical Office No. 66, page No. 868, rule No. 129, Appeal No. 31660 of 84 S issued at the hearing of 10 November 2015 and published in the letter of the Technical Office No. 66, page No. 745, rule No. 114, Appeal No. 31330 of 83 S issued at the hearing of 5 May 2015 (unpublished), Appeal No. 27735 of 72 S issued at the hearing of 8 December 2003 and published in the letter of the Technical Office No. 54, page No. 1184, rule No. 167.

It ruled that: [Articles 37 and 38 of the Criminal Procedure Law allow a person other than the judicial police officer, whether a member of the public or a member of the public authority, to hand over and bring the accused to the nearest judicial police officer in felonies or misdemeanors in which pre-trial detention or imprisonment is permissible, as the case may be, when the felony or misdemeanor is in a state of dress. This authority requires - in the foregoing context - that individual people or men have the public authority to seize the accused and the body of the crime he witnessed with him or what contains this body. Considering that such action is necessary and necessary to carry out that authority in the manner prescribed by the law in order to hand it over to the judicial officer, and if that is so, and what the first witness did with the help of the parents as individuals of the people, from the seizure of the appellant and the other convict and the counterfeit securities, until the judicial officer came and informed him of what happened from them, the law is no more than a mere material exposure required by their duty to seize the accused and the body of the crime, after they witnessed the felony of attempting to promote counterfeit currency in a state of weariness revealed by the examination of a witness The first proof of this paper, which was paid for circulation by the appellant and the other convict, and it was sufficient for the case of flagrante delicto that there were external manifestations that foresee the occurrence of the crime, and it was established from the codes of the judgment that it ended up with this case, based on what he mentioned in this regard - as mentioned above - of justifiable elements that the appellant does not mind that they have their own piece of paper, and the assessment of the circumstances that clothed the crime and surrounded it at the time of its commission or after its commission and the assessment of its adequacy for the occurrence of the case of flagrante delicto is entrusted to the trial court without comment as long as the reasons and considerations on which this report was based are valid to lead to the result it reached, and the contested judgment had ended correctly - as mentioned above - to refuse to plead nullity of arrest and search, the obliteration of the judgment in this regard is irrelevant] Appeal No. 12519 of 87 Q issued at the session of October 8, 2019 (unpublished)

It ruled that: [Articles 37 and 38 of the Code of Criminal Procedure allow non-judicial officers of individual people or men of the public authority to hand over and bring the accused to the nearest judicial officer for judicial control in felonies or misdemeanors in which preventive detention or imprisonment is permissible, as the case may be, whenever the felony or misdemeanor is in a state of dress. This authority requires - in the foregoing context - that individual people or men of the public authority have the custody of the accused and the body of the crime that he saw with him or what contains this body, considering that such action is necessary and necessary to carry out the procedure based on the law, in order to hand him over to the judicial officer. Whereas, and what he did was the first and second witnesses of evidence that they had seen the defendants in possession of a firearm, a stick and a stone thrower, so they seized them and handed them over to the judicial officer, this is only - in the correctness of the law - a mere material exposure required by their duty to detain the defendants after they witnessed the crime in flagrante delicto] Appeal No. 43399 of 85 s issued at the session of January 23, 2018 (unpublished).

On the other hand, the Court of Cassation ruled that: [It is clear from the records of the contested judgment that a person came to the secret policeman holding the contested against him by saying that he stole it two days ago. The secret policeman took the contested against him - after taking his card - to the police station, and this was proven by the judgment, but it states that the secret policeman has already arrested the contested against him, as the arrest of the human being means restricting his freedom and exposure to him by arresting and detaining him, even for a short period in preparation for taking some measures against him. The law had prohibited the arrest of any human being except with his permission or with the permission of the competent investigating authority, and it was not permissible for such a police officer - who is not a judicial officer - to initiate this procedure, and all that the law authorized him - as a man of public authority - to bring the perpetrator - in the flagrant crimes - by applying the provisions of Articles 37 , 38 of the Criminal Procedure Law and handing him over to the nearest officer of the judicial police officer and not to make a arrest in a manner similar to what he did in the incident of the lawsuit. [Appeal No. 30455 of 69 S issued on December 6, 2007 and published in the letter of the Technical Office No. 58 page No. 779 rule No. 146.

It is established that the jurisdiction of judicial officers is limited to the bodies in which they perform their functions in accordance with Article 23 of the Code of Criminal Procedure. If the officer falls outside his jurisdiction, he does not lose the authority of his job, but at least he is considered to be one of the men of public authority referred to by the street in Article 38 of the Code of Criminal Procedure. All that the law gives in accordance with Article 38 of the Code of Criminal Procedure to men of public authority in flagrante delicto, in which it is permissible to sentence to imprisonment, is to bring the accused and hand him over to the nearest judicial officer without giving them the right to arrest or search him [649].

However, this procedure does not allow the men of the public authority or individual people to search the accused. If the law has prohibited the arrest or search of any person except with his permission or with the permission of the competent investigation authority, it is established that articles 37 and 38 of the Criminal Procedure Law allow non-commissioned officers from individual people or from the men of the public authority to hand over and bring the accused to the nearest commissioner for judicial arrest in felonies and misdemeanors in which it is permissible to detain or detain, as the case may be, when the felony or misdemeanor is in flagrante delicto. It is a procedure equivalent to detaining the accused for what was seen with him in order to hand him over to the judicial officer - that is, mere physical exposure to what is required by his duty to detain the accused and the body of the crime on the basis of the theory of procedural necessity. Non-commissioned officer may make an arrest or search as he did in the incident of the case. Whereas, the conclusion of the judgment - as mentioned above - to consider the validity of an individual inspection of the security of the headquarters of the Council of State - which are not judicial officers - of the appellant implies an error in the application of the law; because this inspection is null and void [650].

It ruled that: [Arresting a person means restricting his freedom and subjecting him to arrest and detention, even for a short period, in preparation for taking some measures against him. Searching a person means searching and excavating his body and clothes with the intention of finding the thing to be seized. The law prohibits the arrest or search of any person except with his permission or with the permission of the competent investigating authority. It is not permissible for a policeman - who is not a judicial police officer - to initiate either of these two procedures, and all that the law authorizes him, as a man of the public authority, to bring the perpetrator in flagrante delicto crimes - in application of the provisions of articles 37 and 38 of the Criminal Procedure Law - and hand him over to the nearest judicial police officer, and he is not entitled to conduct a arrest or search. Since the constant in the judgment indicates that the appellant was arrested only because the police officer suspected him of doing so, his arrest and search were invalid. [Appeal No. 405 of 36 S issued at the hearing of May 16, 1966 and published in the second part of the Technical Office's letter No. 17 page No. 613 rule No. 110..

([649]) See Appeal No. 2069 of 83 S issued at the session of January 6, 2014 and published in the letter of the Technical Office No. 65, page No. 23, rule No. 1, Appeal No. 10335 of 80 S issued at the session of January 1, 2011 (unpublished), Appeal No. 59283 of 73 S issued at the session of February 21, 2010 and published in the letter of the Technical Office No. 61, page No. 155, rule No. 23.

([650]) See Appeal No. 20351 of 85 S issued at the 7th session of December 2016 and published in the letter of the Technical Office No. 67, page No. 872, rule No. 107, Appeal No. 44270 of 85 S issued at the 22nd session of October 2016 and published in the letter of the Technical Office No. 67, page No. 735, rule No. 94.

Subsection 7: Informing the accused about the information related to his arrest

First: Rights to be protected during arrest and detention

1- The right of the arrested person to appear before a judicial authority

The arrested accused has the right to appear before a judicial authority, or authorized by a judicial authority such as the Public Prosecution, as soon as possible, or within twenty-four hours from the time of restricting his freedom [651].

2- Right to challenge the legality of arrest or detention

There is no doubt that the police and other security agencies, as guardians of the law and custodians of human rights at the same time, are well aware that arrest and detention is a serious measure that affects the right of individuals to liberty, an exceptional and temporary measure, and is legal only if it is necessary and justified to prevent crime and maintain order, depending on the circumstances of each case.

Accordingly, every person who believes that his arrest or detention is illegal must be able to challenge the legality of this before a judicial authority which may be represented by the investigating judge, the Public Prosecution or a court). This authority must consider the appeal without delay, and verify in particular that the arrest and detention was carried out in accordance with the procedures specified in the law, and by an authority authorized by law, and that it was not arbitrary, and order the release of the person if his arrest or detention is illegal. The Public Prosecution may appeal, even in the interest of the accused, all orders issued by the investigating judge (including detention orders), whether on its own initiative or at the request of the litigants[652].

The appeal shall be filed before the appellate misdemeanor court sitting in the counseling chamber if the appealed order is issued by the investigating judge to remand in custody or for a period of time. If the order is issued by that court, the appeal shall be submitted to the criminal court sitting in the counseling chamber. If it is issued by the criminal court, the appeal shall be submitted to the competent department. In other than these cases, the appeal shall be submitted to the appellate misdemeanor court sitting in the counseling chamber unless the appealed order is issued that there is no cause of action in a felony or issued by this court to release the accused. The appeal shall be submitted to the criminal court sitting in the counseling chamber.

If the person who undertook the investigation is an advisor, the order issued by him shall not be appealed unless it is related to jurisdiction or that there is no need to file a lawsuit, pretrial

([651]) Article 54 of the amended Constitution of the Arab Republic of Egypt for the year 2014, Article 36 of the Code of Criminal Procedure, and the third paragraph of Article 9 of the International Covenant on Civil and Political Rights.

([652]) The fourth paragraph of Article 54 of the Arab Republic of Egypt amended for the year 2014, Article 161 of the Code of Criminal Procedure, and the fourth paragraph of Article 9 of the International Covenant on Civil and Political Rights.

detention, duration, or provisional release. The appeal shall be before the Criminal Court sitting in the counseling room.

The counseling chamber shall, upon revoking the order to file the lawsuit, return the particular case, the acts constituting it, and the text of the law applicable to it, in order to refer it to the competent court.

In all cases, the challenge to the orders of provisional detention, its extension, or provisional release must be adjudicated within forty-eight hours from the date of filing the challenge, otherwise the accused must be released.

One or more of the Chambers of the Court of First Instance or the Criminal Court shall have jurisdiction to hear appeals of provisional detention or provisional release orders.

Decisions issued by the Chamber of Counsel shall in all cases be final[653].

3- The right of the accused to have access to a lawyer

Every person who is arrested or detained has the right to seek the assistance of a lawyer of his choice or to have a qualified lawyer assigned to him to defend him when the interest of justice so requires. The police should enable the accused to exercise this right so that he is able to contact his lawyer from the beginning of his detention and during the investigation with him at the stage preceding his referral to the court, and to contact the lawyer in an atmosphere of confidentiality and privacy, noting that it does not conflict with confidentiality and privacy that this is done in front of the competent authorities, but not in front of them[654].

The investigation of the accused must begin only in the presence of his lawyer, and if he does not have a lawyer, assign him a lawyer, with the necessary assistance for people with disabilities, in accordance with the procedures established by law [655].

It is not permitted for the investigator in felonies and misdemeanors punishable by imprisonment to interrogate the accused or confront him with other accused persons or witnesses except after inviting his lawyer to attend, except in case of flagrante delicto and in case of speeding due to fear of loss of evidence as evidenced by the investigator in the minutes.

The accused shall announce the name of his lawyer with a report to the clerk of the court or to the prison warden, or notify the investigator of it, and his lawyer may also take over this announcement or notification.

If the accused does not have a lawyer, or his lawyer does not attend after his invitation, the investigator shall, on his own initiative, assign him a lawyer.

([653]) Article 167 of the Criminal Procedure Law, as amended by Law No. 153 of 2007.

([654]) Article 49 of the Constitution, Article 1/9 of the Criminal Procedure Code, Article 1/11 of the Universal Declaration of Human Rights, and Article 3/14 of the International Covenant on Civil and Political Rights.

([655]) Article No. 54 of the Arab Republic of Egypt amended for the year 2014.

The lawyer may record in the minutes whatever defences, requests, or observations he may have.

After the final disposition of the investigation, the investigator shall issue, at the request of the assigned lawyer, an order to estimate his fees, guided by the fee estimation table issued by a decision of the Minister of Justice after taking the opinion of the Board of the General Bar Association. These fees shall take the judgment of the judicial fees [656].

Every person accused of a crime is considered innocent until proven guilty by law in a public trial in which he is provided with all the guarantees necessary to defend himself, so he has the right to be tried in his presence and to be able to defend himself in person or by a defender of his choice, and to be informed of his right to have a defender, and to be provided, when the interest of justice so requires, with a defender who appoints him a referee free of charge if he cannot reward him for his fees [657].

4- The right to be tried within a reasonable period of time

Every person who has been detained on a criminal charge has the right to be brought to trial within a reasonable period of time or to be released until the date of his trial. This right is based on the presumption of innocence of the accused and his right to liberty. If the right to liberty is the origin, the exception is detention, which must not last more than is necessary depending on the circumstances of each individual case and does not mean the temporary release of the accused until the date of his trial to drop the charges against him. Therefore, the authorities, if they decide to release the accused, may request the guarantees they deem necessary, when necessary and appropriate, in order to ensure that the person will appear before the court when his case is due to be heard[658].

Second: The right of the arrested person to access his information in international conventions

Whoever is arrested or detained shall be informed immediately of the reasons for his arrest or detention, and his rights shall be read to him, including his right to have access to a lawyer to defend him, and he shall be promptly informed of any charges against him. This information is essential in order for him to be able to challenge the legality of the arrest or detention order against him and, if charged, to begin preparing his defence.

1- The right to know immediately after arrest or detention the reasons for arrest or detention

Any person arrested or detained must be informed, in a language he understands, of the reasons for his deprivation of liberty or of the charges against him, and this must be done immediately, or promptly depending on the circumstances of each case. This right must be respected at all times,

(656) Article 124 of the Criminal Procedure Law, as amended by Law No. 74 of 2007.

(657) Article 11, paragraph 1, of the Universal Declaration of Human Rights and article 14, paragraph 3 (d), of the International Covenant on Civil and Political Rights.

(658) Article 54 of the amended Constitution of the Arab Republic of Egypt of 2014, the third paragraph of Article 9 of the International Covenant on Civil and Political Rights.

including war or armed conflict, the declaration of a state of emergency, or any other exceptional circumstance. He must immediately inform anyone whose freedom is restricted of the reasons for this, be informed of his rights in writing, be able to contact his family and lawyers immediately, and be submitted to the investigating authority within twenty-four hours from the time of restriction of his freedom[659].

This right should apply at all times.

One of the main purposes of the requirement that a person must be informed of the reasons for his arrest or detention is to allow him to challenge the legality of this, if he believes that there is no basis for his arrest or detention.

Hence, the reasons given must be specific and must include a clear explanation of the legal basis for his arrest or detention and the facts on which he was based [660].

For example, the Human Rights Committee concluded that "it is not sufficient just to inform the detainee of his arrest under security measures without any reference to the substance of the complaint against him"[661].

The Special Rapporteur on human rights and counter-terrorism noted that military orders governing the arrest and detention of Palestinians in the West Bank require Israeli authorities to inform individuals of the reason for their detention at the time of their arrest. The Special Rapporteur further noted that Israel has declared its intention to derogate Article 9 of the International Covenant on Civil and Political Rights.

In his response, the Special Rapporteur stressed that derogations from the provisions of the Covenant must be necessary and proportionate, at the same time, and that "there is no good reason why no one should be informed of the reasons for his detention at the time of his arrest" [662].

The Inter-American Court clarified that the right of a person to be notified requires that both the accused and his counsel be informed [663].

([659]) Article 54 of the Amended Constitution of the Arab Republic of Egypt of 2014, the second paragraph of Article 9 of the International Covenant on Civil and Political Rights, Article 7 (4) of the American Convention, Article 14 (3) of the Arab Charter, Article 5 (2) of the European Convention, Principle 10 of the Body of Principles, Section M (2) (a) of the Principles of Fair Trial in Africa, and Principle 5 of the Principles Relating to the Deprivation of Liberty of Persons in the Americas; see Articles 55 (2) and 60 (1) of the Rome Statute, Rule 117 (1) of the Rules of Procedure and Evidence of the International Criminal Court, Rule 53 bis of the Rwanda Rules, and Rule 59 bis (b) of the Yugoslav Rules.

([660]) European Court: Chamayev et al. v. Georgia (36378 / 02), §413 (2005) , Cortesis v. Greece (60593/ 10), §62-§58 (2012), Nichiboruk and Yunkalu v. Ukraine (42310/ 04), - § 209§ (2011 211); Kelly v. Jamaica (1987/253), Human Rights Committee, .UN Doc .8/§ 5 (1991) CCPR/C/41/D/253/1987.

Adolfo [661]Drescher Caldas v. Uruguay (1979/43), Commission on Human Rights, 40 / UN Doc. A/38 Supplement 40 at 192 (2/§13 (1983); see Concluding Observations of the Human Rights Committee: Sudan, / UN Doc. CCPR/C/79 §13 (1997) Add.85; Nichiboruk and Yuncalu v. Ukraine (42310 / 04), .§211-§209 (2011).

([662]) Special Rapporteur on Human Rights and Counter-Terrorism, Israel and the Occupied Palestinian Territories, 2007) ,UN Doc. A/HRC/6/17/Add.4) .§22.

([663]) Tibi v. Ecuador: Inter-American Court §109 (2004)..

The reasons for the arrest must be explained in a language that he understands. This means that interpreters should be provided to those who do not speak the language used by the authorities. As explained by the European Court, this also means that the arrested person should be "informed in simple language free from technical complications and able to understand the legal reasons for his arrest and the facts that justify it." However, the European Court considered that this does not require that the employee who executes the arrest read out all the charges attributed to the arrested person in detail at the moment of arrest[664].

If it is suspected that an individual has committed more than one criminal act, the authorities must then provide him with at least the minimum information on each crime being investigated that can form the basis for his detention [665].

Reviewing a case in which information was withheld from the detainee and his lawyer, allegedly to prevent the suspect from tampering with evidence, the European Court clarified that the necessary information to assess the lawfulness of the detention should be provided in the appropriate manner to the suspect and his lawyer [666].

If the reasons for the arrest or detention are communicated orally, this should be followed by the submission of this information in writing [667].

a. When should the individual be informed of the reasons for his arrest?

The individual must be notified of the reasons for his arrest immediately [668].

Article 5 (2) of the European Convention and Principle 5 of the Principles Relating to Persons Deprived of their Liberty in the Americas require prompt notification of the reasons for arrest

The timeliness of the notice is generally assessed in light of the circumstances of the case. It is possible to tolerate some unavoidable delay, for example to find an interpreter, provided that the arrested person is sufficiently informed of the reasons for his arrest, and that no investigation is conducted with him before giving the reasons

The Human Rights Committee did not find that there was an undue delay when two defendants who did not know the language used by the police were informed of the reasons for their arrest seven

(664) European Court: Fox, Campbell and Hartley v. United Kingdom (86/12244, 12245/ 86 and 12383/ 86), §41-§40 (1990), Dekme v. Turkey §57-§53 (2000) ,(92/20869) , HP. Switzerland (26899 / 95), (2001) §50- § 47 , Chamayev et al. v. Georgia (36378 / 02), §428- §413 (2005)..

(665) Lusenko v. Ukraine (6492/11), European Court §77 (2012).

(666) García Alva v. Germany (23541 / 94), European Court §42 (2001).

(667) See: Concluding Observations of the Human Rights Committee: Sudan, .UN Doc §13 (1997) CCPR/C/79/Add.85; Boyle v. United Kingdom (55434 / 79), European Court §38 (2008).

(668) Article 9 (2) of the International Covenant, Article 14 (3) of the Arab Charter, Principle 10 of the Body of Principles, Section M (2) (a) of the Fair Trial Principles in Africa, and Principle 25 of the Robben Island Guidelines..

and eight hours after their arrest, as they were notified when the interpreter arrived, while the police suspended all official procedures against them until then)[669].

In a case in Northern Ireland, in which persons were immediately informed of their arrest on suspicion of terrorism, under a special law, and were interrogated after about four hours about specific crimes, the European Court said that a period of a few hours "cannot be considered a departure from the time limits imposed by the idea of prompt notification, according to Article 5 (2)" [670].

However, the Human Rights Committee found a violation of article 9 (2) of the International Covenant on Civil and Political Rights in a case in which a lawyer was detained for 50 hours without being informed of the reasons for his arrest [671].

In another case in which the accused was not informed of the reasons for his arrest at the time, and was not informed of the charges until about two months after his arrest, the African Commission concluded that the rights of the accused to a fair trial had been violated [672].

b. The right of the accused to know his legal rights

When a person is arrested, he must be immediately informed of his legal rights, before being investigated or charged, so that he can exercise these rights and benefit from them in his ordeal. One of the most important legal rights that the accused must be informed of when arrested or detained:

The right to be informed immediately of the reasons for restricting his freedom and to be informed of his rights in writing [673].

The right to notify a third person and contact his family and friends and not to isolate him from the outside world, it must enable contact with his family [674].

The right to seek the assistance of a lawyer of his choice or appointed to assist him, and to give him sufficient time and facilities to prepare his defense and to contact a defender assigned to him to defend him[675].

([669]) Commission on Human Rights: Hill v. Spain, / UN Doc. CCPR 2/§ 12 (1997) C/59/D/526/1993; see Griffin v. Spain,.UN Doc .2/§ 9 (1995) CCPR/C/53/D/493/1992.

([670]) Fox, Campbell and Hartley v. United Kingdom (12244 / 86, 12245/ 86, 12383/ 86), EC §42-§40 (1990).

([671]) Portorreal v. Dominican Republic, Human Rights Committee, .UN Doc 2/§9§ (1987) CCOR/C/31/D/188/1984 and 11..

([672]) Media Rights Agenda Against Nigeria (224/98), African Commission, Annual Report 14 §44-§42 (2000)..

([673]) The second paragraph of Article 54 of the amended Constitution of the Arab Republic of Egypt of 2014, and item (a) of paragraph 3 of Article 14 of the International Covenant on Civil and Political Rights.

([674]) The second paragraph of Article 54 of the amended Constitution of the Arab Republic of Egypt of 2014.

([675]) The second paragraph of Article 54 of the amended Constitution of the Arab Republic of Egypt of 2014, and item (b) of paragraph 3 of Article 14 of the International Covenant on Civil and Political Rights.

The right to challenge the legality of arrest or detention. Anyone whose freedom is restricted, and others, have the right to file a grievance before the judiciary against that procedure, and to decide on it within a week of that procedure, otherwise he must be released immediately [676].

The right to remain silent and not to confess or provide evidence against himself. Every accused has the right to silence and every statement that proves that it was made by a detainee under the weight of something of the foregoing, or the threat of something of it, is wasted and unreliable[677].

The right to seek medical assistance and receive visits from family and friends.

The right to complain about ill-treatment or poor conditions. Members of the Public Prosecution and the presidents and agents of the courts of first instance and appeal may visit the public and central prisons in their jurisdictions and ensure that there is no illegal detainee. They may view the prison books and arrest and detention orders, take copies of them, contact any detainee and hear from him any complaint he wants to make to them. The director and staff of prisons shall provide them with all assistance to obtain the information they request [678].

Every prisoner also has the right to submit at any time to the prison warden a complaint in writing or verbally and ask him to report it to the Public Prosecution - and the warden must accept it and report it immediately after proving it in a record prepared for this in the prison.

Anyone who knows of the presence of an illegally detained person or in a place not designated for imprisonment may notify a member of the Public Prosecution - and as soon as he knows, he must immediately move to the place where the detainee is held and conduct the investigation and order the release of the illegally detained person - and he must draw up a report to that effect[679].

The right of a person if he is a foreigner to contact the embassy of his country or a certain international organization.

2- The right to be informed of one's rights immediately after arrest or detention

In order to exercise one's rights, one must know that they exist, and every person arrested or detained has the right to be informed of his rights and to have these rights interpreted to him in order to benefit from them [680].

([676]) The third paragraph of Article 54 of the amended Constitution of the Arab Republic of Egypt of 2014, and item (c) of paragraph 3 of Article 14 of the International Covenant on Civil and Political Rights.

([677]) The third paragraph of Article 55 of the amended Constitution of the Arab Republic of Egypt of 2014, and item (g) of paragraph 3 of Article 14 of the International Covenant on Civil and Political Rights.

([678]) Article 42 of the Criminal Procedure Law.

([679]) Article 43 of the Criminal Procedure Law.

Principles [680]13 and 14 of the Body of Principles, Guidelines 2§ 42 (c) and 3§43 (h) of the Principles on Legal Aid, Guideline 20 (d) of the Robben Island Guidelines, and Section M (2) (b) of the Fair Trial Principles in Africa; see Articles 55 (2) and 60 (1) of the Rome Statute.

CAT Comment No. 2, §13; SPT Standards, 21 (1992) CPT/Inf (92) 3 ,§16 (1996) CPT/Inf (96) § 37- § 36; see also Prosecution v. Ruto, Kuge and Sang, (- 09 / ICC-01 01/11-16), Decision of the Second Pre-Trial Chamber,

These standards require, in various ways, that a person be informed of their rights, including:

- the right to notify a third person;
- the right to a lawyer;
- the right to medical assistance;
- the right to challenge the lawfulness of detention;
- the right not to incriminate oneself, including the right to remain silent;
- Right to Complaint and Remedy for Abuse or Poor Conditions

Furthermore, international standards require that foreign nationals be informed of their rights to contact their country's consular staff or a relevant international organization.

The Inter-American Court has made it clear that a detained person should be notified of his rights, including the right to a lawyer, before making his initial statement to the authorities [681].

The Human Rights Committee and the Subcommittee on Prevention of Torture have declared that the right to be informed of rights under the law should be guaranteed [682].

Some States have provided persons who have been arrested or detained with written material on their rights.

However, such written information should not be considered as a substitute for oral notification of rights. Written materials should be available in all places where persons are deprived of their liberty, in all languages spoken by detained persons. Interpreters should be provided to persons who do not understand or read the language used by the authorities. Information should be provided in a manner that meets the needs of persons who do not read, individuals with disabilities and children [683].

Furthermore, laws guaranteeing the right to notification, as well as information provided to detainees orally and in writing, should include the full spectrum of rights guaranteed in international standards [684].

The Subcommittee on Prevention of Torture and the European Committee for the Prevention of Torture have recommended that the detained person be given a written copy of their rights and

Guaranteeing the Rights of the Defence for the Purposes of the First Appearance of the Accused, (30 March §5 ,(2011).

([681]) Tibi v. Ecuador: Inter-American Court §112 (2004)..

Concluding [682]observations of the Human Rights Committee: Algeria, / UN Doc. CCPR/C §18 (2007) DZA/CO/3; SPT: Maldives, §97 (2009) UN Doc. CAT/OP/MDV/1..

([683]) Principle 42§ 2 (d) of the Principles of Legal Aid..

[684]See Subcommittee on Prevention of Torture: Sweden, / UN Doc. CAT/OP §49- § 44)2008(SWE/1; SPT Concluding Observations: Germany, (1998) UN Doc. A/53/44 (Supp) pp. 195 ,21; Austria, §4 (2005) UN Doc. CAT/C/aut/CO/3 (b)..

that the individual should then be asked to sign a document stating that they have been informed of their rights [685].

a. Notification of the right to use lawyers

One of the most important rights that every person arrested or detained should be informed of is his right to a lawyer: either a lawyer of his own choosing, or a lawyer appointed to assist him [686].

He must be notified of this immediately after his arrest or detention, and before he initiates any investigation with him, or charges him [687].

Principle 17 (1) of the former Body of Principles provides that he shall be promptly informed of such information following his arrest.

The European Court ruled that the failure to inform a 17-year-old young man, or his father, following his arrest for murder of his right to receive legal assistance prior to his interrogation (without the presence of his father or a lawyer) constituted a violation of his rights to defence [688].

The person should be repeatedly notified of his right to legal assistance before being interrogated on suspicion of committing a criminal offence, if his lawyer is not present [689].

b. Notifying the suspect of his right to remain silent

Any person suspected of having committed a criminal act should be informed of his right not to incriminate himself or to confess his guilt, including his right to remain silent during investigation by the police or judicial authorities [690].

([685]) Subcommittee on Prevention of Torture: Maldives, / UN Doc. Cat §98- §95 (2009) OP/MDV/1; CPT Standards, General Report 6, §16 ,CPT/Inf)96(21).

([686]) Principle 5 of the Basic Principles on the Role of Lawyers, Principle 17 (1) of the Body of Principles, Guidelines 3§43 (a) and 2§42 (c-d) of the Principles of Legal Aid, Guideline 20 (c) of the Robben Island Guidelines, Section M (2) (b) of the Principles of Fair Trial in Africa, and Article 55 (2) (c) of the Rome Statute; see Rule 98/1 of the European Prison Rules (applicable to persons detained on remand) , Article 60 of the Rome Statute, and Rule 42 of the Yugoslavia Rules.

General Comment 2 of the Committee against Torture, §13; Recommendation of the Committee of Ministers of the Council of Europe (12) Rec (2012), Annex 1/§ 21.

([687]) General Comment 2 of the Committee against Torture, §13; Recommendation of the Committee of Ministers of the Council of Europe (12) Rec (2012), Annex 1/§ 21.

Principle 5 of the Basic Principles on the Role of Lawyers, Principle 8 of the Principles of Legal Aid, Article 55 (2) (c) of the Rome Statute, Rule 42 of the Rwanda Rules, Rule 42 of the Yugoslavia Rules..

([688]) European Court: Banović v. Cyprus (4268/04), §73 (2008), see also Talat Tunc v. Turkey (32432 / 96), §61 (2007) (notification should include right to legal aid).

([689]) Principle 8 and Guideline 43§3 (a) of the Principles of Legal Aid, Article 55 (2) of the Rome Statute, Rule 42 of the Rwanda Rules, and Rule 42 of the Yugoslavia Rules..

Concluding [690]observations of the Human Rights Committee: France, / UN Doc. CCPR/C §14 (2008) FRA/CO/4; Netherlands, 2009) UN Doc. CCPR/C/NLD/CO/4 §11; CAT: Mexico, 2003) UN Doc. CAT/C/75) §220 (e).

This information should be given to individuals upon arrest and before they are interrogated [691].

3- The right to be promptly informed of the charges against him

Every person arrested or detained has the right to be informed immediately of any charges against him[692].

The requirement to provide immediate information on criminal charges against an arrested or detained person is critical to the effective exercise of his or her right to challenge the lawfulness of his or her detention. By providing such information, an individual may be able to challenge the charges against him or her at this stage and request that they be dropped.

Information on charges promptly provided to a detainee following arrest need not be as specific as that to be provided when formally charged [693].

The criteria that apply to this subsequent stage require that the accused be given sufficient details regarding the charges against him to enable him to prepare his defense.

4- Notify the person in a language he or she understands

The person arrested must be informed of the information regarding the reasons for his arrest, the charges against him, and his rights in a language he understands [694].

A number of international standards explicitly stipulate that the detainee must be notified of the reasons for his arrest as well as the charges against him in a language he understands [695].

Written records should also be kept[696].

It should include:

Reason for arrest;

Guideline [691]3§43 (a) of the Guidelines on Legal Assistance, article 55 (2) of the Rome Statute, rule 42 (a) (3) of the Rwanda Rules, and rule 42 (a) (3) of the Yugoslavia Rules.

([692]) Article 9 (2) of the International Covenant, Article 16 (5) of the Migrant Workers Convention, Article 7 (4) of the American Convention, Article 14 (3) of the Arab Charter, Article 5 (2) of the European Convention, Principle 10 of the Set of Principles, Section M (2) (a) of the Principles for a Fair Trial in Africa, Principle 5 of the Principles Relating to Persons Deprived of their Liberty in the Americas, Article 60 (1) of the Rome Statute, Article 117 (1) of the Rules of Procedure and Evidence of the International Criminal Court, Article 20 (4) (a) of the Statute of the Rwanda Tribunal, and Article 20/2 of the Statute of the Yugoslavia Tribunal.

Kelly [693]v. Jamaica (253/1987), Human Rights Committee, UN Doc. 8/§ 5 (1991) CCPR/C/41/D/253/1987.

([694]) See Guiding Principle 42§ 2 (d) of the Principles of Legal Aid, Principle 14 of the Body of Principles, Guiding Principle 20 (d) of the Robben Island Guidelines, and Principle 5 of the Principles Relating to Persons Deprived of their Liberty in the Americas.

([695]) Article 16 (5) of the Migrant Workers Convention, Article 5 (2) of the European Convention, Principle 14 of the Body of Principles, Section M (2) (a) of the Principles for a Fair Trial in Africa and Principle 5 of the Principles relating to Persons Deprived of their Liberty in the Americas; see Article 14(3) of the Arab Charter..

([696]) Articles 18-19 of the Convention on Enforced Disappearances, Principle 12 of the Body of Principles, and Section M (6) of the Principles on Fair Trial in Africa; see Article 11 of the American Convention on Disappearance, Guideline 30 of the Robben Island Guidelines, and Principle 11 of the Principles Relating to Persons Deprived of their Liberty in the Americas.

- The time and date of arrest and transfer to the place of detention;
- The time and date of bringing the individual or a judge or other authority;
- The party who carried out the arrest or detention;
- The place where the individual is being held

Such records should be made available to the detained person and his counsel, and the information they contain should be made available to relatives.

5- Additional Notification Rights of Foreign Nationals

Foreign nationals who are detained or arrested (regardless of their immigration status) shall be promptly informed of their right to contact the embassy of their country or a consular post of their country. If a person is a refugee or a stateless person, or is under the protection of an intergovernmental organization, he shall be promptly notified of his right to contact the appropriate international organization or a representative of the State in which he resides [697].

The Vienna Convention on Consular Relations, the Migrant Workers Convention, the Principles on Legal Assistance, the Principles on Persons Deprived of their Liberty in the Americas, and the European Prison Rules require that a person arrested, detained or imprisoned be informed of this right without delay. The Set of Principles and Principles for a Fair Trial in Africa (Section M (2) (d)) requires that such information be provided without delay[)698].

The Inter-American Court ruled that notification of the right to contact an official consular officer must be made at the time of arrest, and in any case before the individual makes his or her initial statement to the authorities [699].

This is now reflected in Principle 5 of the Principles Relating to Persons Deprived of their Liberty in the Americas.

The International Court of Justice has clarified that the arresting authorities have a duty to inform the individual of this right as soon as they know that the person is a national of a foreign State, or as soon as there are grounds to believe that the person may be a foreign national [700].

United [697]Nations General Assembly resolution 65/212, §4 (g); Human Rights Council resolution 12/6, §4 (b).

Article 36 (1) (b) of the Vienna Convention on Consular Relations, Article 16 (7) of the Migrant Workers Convention, Principle 16 (2) of the Body of Principles, Guideline 3§43 (c) of the Guidelines on Legal Assistance, Section M (2) (d) of the Principles on Fair Trial in Africa, Principle 5 of the Principles relating to Persons Deprived of their Liberty in the Americas, and Rule 27 of the Council of Europe Rules on Pre-trial Detention (Pretrial Detention) .

See Recommendation 12 (Rec)2012 of the Committee of Ministers of the Council of Europe, Annex 2/15-1/§ 15§ and 25/1-25 / 2.

([698]) ICJ: LaGrand Case (Germany v. United States of America), §77§ (2001) and 89 (Article 36/1 of the Vienna Convention creates rights for detained foreign nationals), Ahmadou Diallo (Republic of Guinea v. Democratic Republic of the Congo) §95 (2010).

([699]) Inter-American Court: Chaparro Álvarez and Labo Inoguez v. Ecuador, §164 (2007) , Acosta-Calderón v. Ecuador, §125 (2005), Tibi v. Ecuador, §112§ (2004 and 195), Advisory Opinion No. 99/1999) ,OC-16 §106; see Avena and Other Mexican Nationals, (Mexico v. United States of America), ICJ §87 (2004).

([700]) Avena and Other Mexican Nationals, (Mexico v. United States of America), ICJ §88 (2004).

This right should include individuals with dual nationality of the country initiating the arrest or detention and another country [701].

If a person holding the nationality of another country requests the authorities to contact official consular officials, the authorities shall, at that time, do so without delay but shall only do so at the request of the same person [702].

Amnesty International is of the view that, in cases where an individual holds the nationality of two foreign States, that individual should be granted the right to communicate with and receive visits from representatives of both States, if he or she so chooses.

Third: The Right to a Pre-Trial Lawyer

Every person who is detained, or who is likely to be charged, has the right to the assistance of a lawyer of his choice to protect his rights and assist him in defending himself and if he is unable to pay the expenses necessary to appoint a lawyer, he has the right to be assigned a competent and qualified lawyer to defend him when the interest of justice so requires.

Detainees should be able to communicate with a lawyer from the outset of their detention, including during interrogation and should be given adequate time and facilities to communicate with their lawyer, in an atmosphere of confidentiality and privacy.

1- The right to a lawyer in the pre-trial stages

Every person arrested or detained (whether on a criminal or non-criminal charge), and every person facing a criminal charge (whether detained or not) has the right to a lawyer [703].

A range of non-treaty treaties and conventions have affirmed the right of a person to be assisted by a lawyer during pre-trial proceedings [704].

Although there is no explicit provision referring to a person's right to a lawyer during detention, interrogation and preliminary investigation in the International Covenant, the African Charter, the

([701]) See Rule 27 (2) of the Council of Europe Rules on Detention Pending Trial..

([702]) Article 36 (1) (b) of the Vienna Convention on Consular Relations, and Article 16(7) (a) of the Migrant Workers Convention.

[703]See Human Rights Committee General Comment 32, §34.

([704]) Article 17(2) (d) of the Convention on Enforced Disappearances, Article 37 (d) of the Convention on the Rights of the Child, Article 16 (4) of the Arab Charter, Principle 1 of the Basic Principles on the Role of Lawyers, Article 17 of the Body of Principles, Principle 3 and Guideline 4 of the Principles of Legal Aid, Guideline 20 (c) of the Robben Island Guidelines, Sections A (2) (f) and M (2) (f) of the Principles of Fair Trial in Africa, Guideline 4 (1) of the Council of Europe Guidelines on the Eradication of Impunity, Rule 25 of the Council of Europe Rules on Pre-trial Detention, Rule 98/2 of the European Prison Rules, Articles 55 (2) (c) and 67 (1) (d) of the Rome Statute, Rules 117 (2) and 12 (2) (a) of the Rules of Procedure and Evidence of the International Criminal Court, Article 17 (3) of the Statute of the Rwanda Tribunal, Rule 42 of the Rwanda Rules, Article 18 (3) of the Statute of the Yugoslavia Tribunal, Rule 42 of the Yugoslavia Tribunal Rules..

American Convention or the European Convention, the monitoring mechanisms of this treaty have made it clear that it is a prerequisite for the meaningful exercise of the right to a fair trial [705].

Therefore, the provisions relating to the right to be assisted by counsel under these treaties also apply to the pre-trial stage [706].

The lawyer's legal advice at the pre-trial stage enables the person suspected or accused of committing a criminal offence to protect his rights and to start preparing his defense. This assistance for detainees is important in terms of enabling them to challenge the legality of their detention. It also provides them with important protection from torture and other forms of ill-treatment, from being forced to make "confessions" condemning them, and from being subjected to enforced disappearance and other human rights violations[707].

The right to a pre-trial lawyer includes the following rights:

- the use of a lawyer;
- have adequate time to consult a lawyer in an atmosphere of privacy;
- The presence of the lawyer during the investigation sessions, and the ability to consult the lawyer during the interrogation

As for those who are not represented by a lawyer of their choice, they should usually appoint a lawyer assigned to represent them without pay, if they are unable to pay [708].

Individuals should receive an effective remedy if public officials undermine their right to counsel, or unduly delay or deny their enjoyment of this right [709].

The European Court has made it clear that the deliberate and systematic refusal to allow a detained person access to a defence lawyer - particularly when the person in question is detained in a foreign country - amounts to an outright denial of the right to a fair trial [710].

([705]) For example, concluding observations of the Human Rights Committee: Georgia, §27 (1997) UN Doc. CCPR/C/79/Add.75 , Netherlands, / UN Doc. CCPR/C §11 (2009) NLD/CO/4; Lisbeth Siegfeld and Muse Ephrem v. Eritrea (250) .2002), African Commission, Annual Report 17 §55 (2003); Barreto Leyva v. Venezuela, Inter-American Court §62 (2009); Salduz v. Turkey (02/36391), Grand Chamber of the European Court §55- §54 (2008).

([706]) Article 14 (3) (d) of the International Covenant, Article 7 of the African Charter, Article 8 (2) (d) of the American Convention, and Article 6 (3) (c) of the European Convention..

([707]) General Comment 20 of the Human Rights Committee, §11; United Nations Special Rapporteur on Torture, 17/1992 / §284 (1991) UN Doc. E/CN.4; Salduz v. Turkey (36391/ 02), Grand Chamber of the European Court §54 (2008).

([708]) Article 16 (4) of the Arab Charter, Principle 17 (2) of the Body of Principles, Principle 3 and Guideline 3§ 43 (b) of the Guidelines on Legal Assistance, Principle 5 of the Principles Relating to Persons Deprived of their Liberty in the Americas…

([709]) Principle 16 of the Basic Principles on the Role of Lawyers, Principles 2§16and 12 of the Principles on Legal Aid, Sections i(b) and h(e) (3) of the Principles on Fair Trial in Africa, and Principle 5 of the Principles on Persons Deprived of their Liberty in the Americas.

Human Rights Committee General Comment 32, §34 .

([710]) In favour v. Germany (32865 / 03), (Inadmissibility) Decision of the European Court §101 (2007), Osman v. United Kingdom (8139 / 09), European Court §259 (2012).

2- When does a detained person have the right to contact a lawyer?

All suspects and accused persons, whether detained or not, have the right to contact a lawyer and seek his advice from the very outset of the criminal investigation against them. The person who is arrested or detained should be able to contact a lawyer as soon as his deprivation of liberty begins [711].

They should be assisted by a lawyer during their investigation by the police and the investigating judge, even if they are exercising their right to remain silent [712].

The Committee against Torture raised particular concerns that the detainee's exercise of his right to a lawyer, under the Cambodian Code of Criminal Procedure, did not begin until 24 hours after his arrest [713].

The Inter-American Court declared that the suspect or accused must receive legal assistance from the moment the order is issued to start the investigation against him, and in particular when the accused makes his statement [714].

The European Court considers that the right to a fair trial requires, as a general rule, that the accused person be allowed to obtain legal assistance as soon as he is placed in detention, including during the initial stages of the police investigation against him [715].

It also ruled that the suspect should have access to a lawyer from the first interrogation conducted by the police, unless there are coercive reasons that are identified and prevent this in the case under consideration, and warned that irreparable harm will be caused to the rights of the defense

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([711]) Article 37 (d) of the Convention on the Rights of the Child, Principle 17 of the Body of Principles, Principle 3 and Guidelines 3§43 (b) and(d) and 4§44 (a) of the Principles on Legal Aid, Guideline 20 (c) of the Robben Island Guidelines, and Principle 5 of the Principles on Persons Deprived of their Liberty in the Americas.

Resolution 13/19 of the Human Rights Council, 19 / UN Doc. A/HRC/RES/13 §6 (2010), Concluding observations of the Human Rights Committee: Georgia, .UN Doc §27 (1997) CCPR/C/79/Add.75 , Jordan, UN Doc. CCPR/C/JOR/CO/4 §9 (2010); Concluding Observations of the Committee against Torture: Latvia, .UN Doc §6 §) 2004(CAT/C/CR/31/3 (h) and 7(c)); Dayanan v. Turkey (7377/03), European Court §33- § 30 (2009); CPT General Report 12, §40§ ,15 (2002) CPT/Inf 41-..

Guiding [712]Principle 3§43 (b) of the Principles on Legal Aid, Principle 5 of the Principles on Persons Deprived of their Liberty in the Americas, Article 55 (2) (c) and(d) of the Rome Statute, Rule 42 (a) (1) of the Rwanda Rules, and Rule 42 (a) (1) of the Yugoslavia Rules.

Resolution 13/19 of the Human Rights Council, 19 / UN Doc. A/HRC/RES/13 §6 (2010); Concluding observations of the Human Rights Committee: Japan, .UN Doc §18 (2008) CCPR/C/JPN/CO/5 , Netherlands, UN Doc. CCPR/C/NLD/CO/4 §11 (2009), SPT: Maldives, .UN Doc §107- § 105)2009(CAT/OP/MDV/1; European Court: Dayanan v. Turkey (7377/03), §33- § 30 (2009); Simmons v. Belgium (71407/ 10), (Inadmissibility) Resolution §31 (2012), Turkan v. Turkey (33) .86/04), §42 (2008), Salduz v. Turkey (36391/ 02), Grand Chamber §55- § 54 (2008), John Marie v. United Kingdom (18731/ 91), Grand Chamber §66 (1996).

Concluding [713]observations of the Committee against Torture: Cambodia,.UN Doc .§14 (2010) CCPR/C/KHM/CO/2.

([714]) Pareto Leyva v. Venezuela, Inter-American Court §62 (2009).Salduz v. Turkey (36391/ 02), Grand Chamber §54§ (2008).

([715]) European Court: Dayanan v. Turkey (7377/03), §32-§30 (2009);

if statements made by the accused during the police investigation are used and incriminated by himself, without allowing him to have the assistance of a lawyer, in supporting his conviction [716].

The presence of a lawyer during a police investigation can act as a deterrent to individuals intentionally obtaining information or confessions by coercing persons in their custody. If the detainee has the right to consult with a lawyer in private from the outset of detention, the detainee is also able to report any ill-treatment. Upon reaching the detainee's request to the lawyer, the latter may file a complaint. If this information is expressed in confidence, it can be used anonymously to prevent abusive practices in the future. The presence of a lawyer during police questioning can be used as a safeguard for police officers in the event that they face unfounded allegations of ill-treatment. The right to a lawyer from the very outset of deprivation of liberty is therefore an important tool for the prevention of ill-treatment as well as a guarantee of fair trials.

On the other hand, the protective value associated with access to a lawyer depends on whether or not the right to that lawyer is exercised in practice. If persons deprived of their liberty are unable to afford a lawyer and this lawyer is not provided for them, the right to a lawyer and its impact on the prevention of ill-treatment becomes theoretical. The SPT emphasizes that all persons deprived of their liberty must have access to a lawyer at the earliest possible stage of such detention, including the first moments when the person is questioned by the police.

The SPT therefore recommended that the authorities ensure the right of all persons deprived of their liberty to be assisted by a lawyer from the very outset of their deprivation of liberty. They should be regularly informed of this right by the police and provided with reasonable facilities to consult with a lawyer without the presence of a witness. Moreover, if the detained person does not have a lawyer of his choice, he has the right to a lawyer appointed for him and should enjoy legal assistance if he does not have sufficient resources to pay [717].

Persons should also receive legal assistance during their interrogation by the investigating judge [718].

The European Court has found that a law prohibiting the use of a lawyer by a detainee in police custody constitutes a violation of the European Convention, although the accused, suspected of being a member of an illegal armed organization (Hezbollah), remained silent during police interrogation [719].

([716]) European Court: Salduz v. Turkey (36391 / 02), Grand Chamber §55§ (2008) , Nichiboruk and Yuncalu v. Ukraine (423310/ 04), (2011) § 263- § 262 , John Marie v. United Kingdom (18731/ 91), Grand Chamber §66 (1996).

([717]) See the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment A/RES/43/173, (9 December 1988) Principle 17, (CAT/OP/MDV/1, 26 February 2009, § §106 - 107).

Simmons [718]v. Belgium (71407/ 10), Decision (Inadmissibility) (2012) §31; see Quaranta v. Switzerland (12744 / 87), European Court (1991) §38-§32.

([719]) Dayanan v. Turkey (7377/03), European Court, §33-§32 (2009); see John Marie v. United Kingdom (18731 / 91), Grand Chamber (1996), §66.

The European Committee for the Prevention of Torture clarified that the right to counsel should apply even before a person is declared a suspect, including when summoned to a police station as a witness or for the purpose of his or her discussion and recommended that persons summoned for cross-examination as witnesses, in which case they are legally obliged to appear and remain at the disposal of their convener, should have the right to counsel[720].

The International Criminal Court has ruled that statements made by an accused during his initial interrogation by national authorities, without the presence of a lawyer, and where he has been fully informed of the reasons for his detention, shall not be admissible as evidence to be admissible in court [721].

Even international standards that allow the delay in allowing a detained person to have access to a lawyer make it clear that this is only allowed in exceptional cases and these circumstances must be clearly defined in the law and limited to cases where it is considered indispensable, in the case under consideration, to maintain security and good order. The decision in this regard should be taken by a judicial or other authority, but the use of a lawyer, even in such cases, should begin no more than 48 hours after the arrest or detention of the person [722].

The Special Rapporteur on torture recommended that anyone arrested should be allowed "access to a lawyer within no more than 24 hours of arrest" [723].

With the aim of minimizing the negative effects of any delay in allowing the detainee to have access to a lawyer of his choice, upon a judicial order, the Special Rapporteur on torture, as well as the European Committee for the Prevention of Torture, recommended that, in such exceptional cases, the suspect should be allowed to have the assistance of an independent lawyer of his choice, for example, from a pre-approved list of lawyers, as an alternative to his late use of a lawyer of his choice[724].

Any delay in accessing counsel shall be decided, with justification, on a case-by-case basis.

There should be no systematic delays in the use of a lawyer for a specific category of crimes, whether misdemeanors or serious crimes, even for those covered by counter-terrorism

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([720]) General Report of the European Committee for the Prevention of Torture, §19 ,28(2011) CPT/Inf , General Report 12 of the Committee for the Prevention of Torture, §41 ,12(2002) CPT/Inf..

([721]) Prosecution v. Katanga and Ngodtolo, (2635-07/01-04/ICC-01), Trial Chamber 2, Decision on Objections by Prosecution (17 December §65-§62 (2010); see also Prosecution v. Delalic, Trial Chamber of the ICTY, Decision on Objection to Exclusion of Evidence (2 September §55-§38 (1997).

Principle [722]7 of the Basic Principles on the Role of Lawyers and Principle 18 (3) of the Body of Principles; see Principle 15 of the Body of Principles.

([723]) Special Rapporteur on Torture, 17/1990/ UN Doc. E/CN.4 §1989272 (c); see Special Rapporteur on Torture: / UN Doc. E §926 (1995) CN.4/1995/34 (d), 156 / §39 (2010) UN Doc. A/56 (f)..

([724]) Special Rapporteur on Torture, 156/UN Doc. A/56 (2010) §39 (f); CPT General Report 12, §41 ,15 (2002) CPT/Inf..

legislation. Persons suspected of serious cases in particular may be most at risk of torture or other ill-treatment, and most in need of a lawyer [725].

A number of bodies have expressed concerns about laws and practices that lead to delays in the use of lawyers by persons suspected of being linked to terrorist crimes [726].

For example, the Committee against Torture has expressed concern that persons arrested under Turkey's anti-terrorism law are denied access to a lawyer for a period of 24 hours[727].

The Human Rights Committee recommended that "anyone arrested or detained on a criminal charge, including persons suspected of having links to terrorism, should have immediate access to a lawyer" [728].

In a case in which an individual was arrested under the anti-terrorism legislation of Northern Ireland, he requested to see a lawyer upon his arrival at the police station, but the authorities delayed the response to his request for more than 48 hours, and interrogated him repeatedly during this period, and the European Court considered this a violation of his rights [729].

Individuals also have the right to have access to a lawyer when brought before a judge to decide whether they should be placed in pretrial detention.

3- Right to choose a lawyer

The right to choose a lawyer, in general, including at the pre-trial stage, means the right to appoint a lawyer of one's own choosing [730].

International standards explicitly stipulate the right of the suspect to receive assistance from a lawyer of his choice at the pre-trial stage [731].

As stated in Chapter 3/1, it was considered that other standards related to the right to a lawyer also apply to the pre-trial stage [732].

([725]) General Report 21 of the Committee for the Prevention of Torture, 28) §21 ,CPT/Inf)2011; Salduz v. Turkey (36391/ 02), Grand Chamber of the European Court §54 (2008).

([726]) Concluding observations of the Human Rights Committee: United Kingdom, UN §19 (2008) Doc. CCPR/C/GBR/CO/6 , Australia, / UN Doc. CCPR/C/§11 (2009) aus/CO/5; Special Rapporteur on human rights and counter-terrorism: Spain, §15§ , (2008) UN Doc. A/HRC/10/3/, Add.2 and 22 (on security laws and practices); see Concluding Observations of the Committee against Torture: Israel, §15 , (2009) UN Doc. CAT/C/ISR/CO/4 , Jordan, §12 ,(2010) UN Doc. CAT/C/JOR/CO/2 , China,.UN Doc §16 ,)2008(CAT/C/CHN/CO/4 (d)..

Concluding [727]observations of the Committee against Torture: Turkey, / UN Doc. CAT/C .§11 (2010) TUR/CO/3.

([728]) Concluding observations of the Committee against Torture: United Kingdom, UN §19 , (2008) Doc. CAT/C/GBR/CO/6..

([729]) Maggie v. United Kingdom (28135 / 95), European Court (2000) .§46- §42.

([730]) Concluding observations of the Committee against Torture: Spain, .UN Doc §14 , (2008) CAT/C/ESP/CO/5.

([731]) Principles 1 and 5 of the Basic Principles on the Role of Lawyers, sections G(b), H(d) and M (2) (e) - (f) of the Fair Trial Principles in Africa, and article 55 (2) (c) of the Rome Statute; see Principle 17 of the Body of Principles..

([732]) Article 14 (3) (d) of the International Covenant, Article 7 of the African Charter, Article 8 (2) (d) of the American Convention, and Article 6 (3) (c) of the European Convention..

However, a person does not have the absolute right to choose a lawyer to represent him if the court appoints a lawyer for him.

4- The right to assign a lawyer free of charge

If a person is arrested, charged or detained, and does not have a lawyer of his choice, he has the right to assign a lawyer to defend him when the interest of justice so requires, and when one is unable to pay the expenses of the lawyer, he must be assigned a lawyer to defend him free of charge [733].

The following criteria apply explicitly to the pre-trial stage, in addition to the criteria that apply during all stages of criminal proceedings [734].

The principle of providing legal assistance to persons who do not have sufficient financial resources applies at all times, under Article 13 of the Arab Charter, including during states of emergency.

Whether the interest of justice requires the appointment of a lawyer in the first place depends on the seriousness of the crime, the complexity of the case and the severity of the possible punishment [735].

It can also depend on a person's particular vulnerabilities, such as those related to age, health or disability[736].

The Committee against Torture expressed concern that lawyers are appointed in Japan only in cases of criminal offences and that Turkish law denies suspects of charges punishable by less than five years in prison access to legal aid [737].

Governments should allocate sufficient funds and other resources for the assignment of lawyers to defend those in need of legal assistance throughout the country, including those who cannot pay expenses, as well as persons under the jurisdiction of the State elsewhere [738].

Concluding [733]observations of the Committee against Torture: Tajikistan,UN Doc §19 (2005) CAT/CO/84/TJK , Slovenia: UN Doc. CAT/CO/84/SVN §9 (2005); CPT General Report 12, 15) §41 ,CPT/Inf)2002.

([734]) Articles 13 (1) and 16 (4) of the Arab Charter, Principle 6 of the Basic Principles on the Role of Lawyers, Principle 17 (2) of the Body of Principles, Principle 3 and Principles 4 and 55§ 11 (a) of the Principles of Legal Aid, Article 55 (2) (c) of the Rome Statute, Rule 42 (a) (1) of the Rwanda Rules, and Rule 42 (a) (1) of the Yugoslav Rules; see Chapter (h) (a) of the Principles of Fair Trial in Africa.

Principle [735]3 of the Principles of Legal Aid, and Section H(b) - (c) of the Principles of Fair Trial in Africa.

General Comment 32 of the Human Rights Committee, §38; Quaranta v. Switzerland (87/12744), ECtHR §34- §32 (1991)..

([736]) Principles 3§23 and 10 of the Principles of Legal Aid..

CAT [737]Concluding Observations: Japan, UN Doc §15 (2007) CAT/C/JPN/CO/1 (g), Turkey, CAT Concluding Observations: United Kingdom, §11 (2010) UN Doc. CAT/C/TUR/CO/3..

([738]) Principle 3 of the Basic Principles on the Role of Lawyers, Principle 10§33 and Guidelines 11 and 12 of the Principles of Legal Aid.

CERD General Recommendation 31 §30 (2005); Human Rights Committee General Comment 32, §10- § 7; Special Rapporteur on the independence of the judiciary, 289 / §78 (2011) UN Doc. A/66; see Concluding observations of

The legal aid system must be designed to provide free assistance to individuals who cannot pay expenses immediately after arrest[739].

If a disclosure procedure is applied to financial capabilities, initial legal assistance should be ensured for individuals who urgently need it pending the results of the disclosure of capabilities [740].

Effective guarantee of the right to a fair trial and to a lawyer, without discrimination, also requires that governments appoint interpreters who provide their services free of charge, during the pre-trial stages, to those who do not understand or speak the language used in the proceedings [741].

5- The right to receive advice from a competent specialized lawyer

Any person who is arrested, detained or accused of committing a criminal act has the right to be defended by an experienced and competent lawyer in dealing with crimes of the same nature as the crime attributed to him [742].

Defense attorneys, including assigned attorneys, shall act freely and with due diligence in accordance with the law and recognized professional standards and ethics of the legal profession and shall advise their clients on their legal rights and duties, and the legal system.

They must also assist their clients in every appropriate way, and take all measures necessitated by the need to protect the rights and interests of their clients. Lawyers, while protecting the rights of their clients and promoting justice, must respect human rights recognized in national and international law [743].

The authorities, in particular the courts, shall ensure that lawyers, in particular those assigned to them, effectively represent suspects and accused persons.

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the Human Rights Committee: Rwanda, / UN Doc. CCPR/C/§18 (2009) RWA/CO/3; see also Concluding Observations of the Committee against Torture: Burundi, §9 (2006) UN Doc. CAT/C/BDI/CO/1 , Bulgaria, §5§ (2004) UN Doc. CAT/CR/32/6 (d) and 6(d); Concluding observations of the Committee on the Elimination of Racial Discrimination: United States of America, .UN Doc §22 (2008) CERD/C/USA/CO/6; Inter-American Commission, Report on Terrorism and Human Rights (2002), section 3(d) (1) (d) §236; Advisory Opinion OC-11/90 of the Inter-American Commission §27-§22 ,(1990).

Concluding [739]observations of the Human Rights Committee: Azerbaijan,UN Doc §8 (2009) CCPR/C/AZE/CO/3 , San Marino, / UN Doc. CCPR/C/SMR §12 (2008) CO/2 , Austria, §15 (2007) UN Doc. CCPR/C/aut/CO/4 , Panama, §13 (2008) UN Doc. CCPR/C/PAN/CO/3..

([740]) Guideline 1§41 (c) of the Principles of Legal Aid..

([741]) Diallo v. Sweden (13205 / 07), (Inadmissibility) Decision of the European Court §25- § 24 (2010); Recommendation 12) Rec)2012 of the Committee of Ministers of the Council of Europe, Annex 3/§21.

([742]) Principle 6 of the Basic Principles on the Role of Lawyers, Principle 13 and Guidelines 5§45 (c), 13§64 and 15§69 of the Principles of Legal Aid; and Guiding Principles 9§52 (b) and 11§58 (a) of the Principles of Legal Aid.

([743]) Principles 13-14 of the Basic Principles on the Role of Lawyers, and Section I (1) of the Fair Trial Principles in Africa.

6- The right to adequate time and facilities to contact a lawyer

The rights of a person accused of a criminal act to adequate time and facilities to prepare his defense and defend himself require that suspects and defendants have opportunities to communicate with their lawyers in an atmosphere of confidentiality and privacy [744].

This right applies to all stages of the proceedings and is particularly relevant to persons in pretrial detention.

7- Right to confidential communication with lawyers

The authorities must respect the confidentiality of communications and consultations, within the framework of the professional relationship between lawyers and their clients [745].

The right to communicate with a lawyer in an atmosphere of confidentiality applies to all persons, including those arrested, detained or charged with a criminal offence[746].

Governments should ensure that detainees are able to consult and communicate with their lawyers without delay, hindrance or oversight [747].

For this purpose, police stations and places of detention, including those located in rural areas thereof, shall provide adequate facilities for individuals arrested or detained to meet and communicate with their lawyers in private including by telephone[748].

([744]) Principle 8 of the Basic Principles on the Role of Lawyers, Principle 18 of the Body of Principles, Principle 7 and Guidelines 43§ 3 (d), 44§ 4 (g) and 45§ 5 (b) of the Principles of Legal Aid, Rule 93 of the Standard Minimum Rules, Sections M(2) (e) and N(3) (e) (1-2) of the Principles of Fair Trial in Africa, Rules 2/98 and 23/4 of the European Prison Rules; see Article 14 (3) (b) of the International Covenant, Article 18 (3) (b) of the Migrant Workers Convention, Articles 8(2) (c) and 8(2) (d) of the American Convention, Article 16 (3) of the Arab Charter, Article 67 (1) (b) of the Rome Statute, Article 20 (4) (b) of the Statute of the Rwanda Tribunal, Article 21 (4) (b) of the Statute of the Yugoslavia Tribunal; see also Article 7(1) of the African Charter, Article 6(3) (c) of the European Convention.

Human Rights Committee General Comment 32, §34- §32; HRC Resolution 15/18, §4 (f); see Castillo Petruzzi et al. v. Peru, Inter-American Court §139 (1999).

([745]) Principle 22 of the Basic Principles on the Role of Lawyers, and section i(c) of the Fair Trial Principles in Africa.

([746]) Article 8 (2) (d) of the American Convention, Article 16 (3) of the Arab Charter, Principle 8 of the Basic Principles on the Role of Lawyers, Principle 18 of the Body of Principles, Principles 7, 12 and Guidelines 43§ 3 (d), 44 § 4 (g) and 45§ 5 (b) of the Principles of Legal Aid, Section N (3) (e) (1-2) of the Principles of Fair Trial in Africa, Rule 23/4 of the European Prison Rules, Article 67/1 (b) of the Rome Statute, and Guideline 97 (2) of the Guidelines of the International Criminal Court; see Article 14 (3) (b) and(d) of the International Covenant, and Article 6 (3) (b) and(c) of the European Convention.

([747]) Principle 8 of the Basic Principles on the Role of Lawyers, Principle 18 (3) of the Body of Principles, Principles 7, 12 and Guidelines 43§ 3 (d), 44§ 4 (g) and 45§ 5 (b) of the Principles on Legal Aid, Rule 93 of the Standard Minimum Rules, Section n (3) (e) of the Principles on Fair Trial in Africa, and Principle 5 of the Principles Relating to Persons Deprived of their Liberty in the Americas; see Rules 98/2 and 23/4 of the European Prison Rules, and Article 67 (1) (b) of the Rome Statute.

See Human Rights Committee Comment 32, §34 .

[748]See Concluding Observations of the Committee against Torture: Latvia,.UN Doc .§7 (2008) CAT/C/LVA/CO/2.

The necessary facilities should be organized in such a way as to ensure the confidentiality of oral and written communications between individuals and their lawyers [749].

Detainees should be guaranteed the right to keep documents related to their cases themselves [750].

The European Court ruled that the rights of the defense were violated in a case in which the detention center facilities related to it required detainees to speak to their lawyers from behind glass barriers covered with holes in the net, which did not allow the passage of documents between the detainee and his lawyer. The court found that these barriers created real obstacles to communication in private between the detainee and his lawyer [751].

Laws and practices that routinely allow the police or others to monitor the content of communications between suspects and their lawyers are inconsistent with the rights of the defence[752].

The Human Rights Committee has expressed concern about allowing prosecutors in Poland to attend suspects' meetings with their lawyers, and about allowing the suspect's correspondence with his lawyer to be inspected on the order of a member of the Public Prosecution [753].

The Special Rapporteur on human rights and counter-terrorism expressed concern that persons accused of terrorism-related offences in Egypt are not allowed to communicate with their lawyers in private before, or even during, the trial[754].

To ensure confidentiality, taking into account security imperatives, international standards specifically stipulate that consultation processes can take place under the eyes, but not under the hearing, of law enforcement officials [755].

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[749] See Concluding Observations of the Committee against Torture: Jordan,.UN Doc §12 (2010) CAT/C/JOR/CO/2; see Mudarka v. Moldova (14437/ 05), European Court §99- §84 (2007).

([750]) See Principle 28§ 7 of the Principles of Legal Aid.

([751]) Mudarka v. Moldova (14437 / 05), European Court (2007) .§99- §84.

Concluding [752] observations of the Committee against Torture: Austria, .UN Doc §9 (2010) 5-CAT/C/aut/CO/4; see also Opinion 33/2006 of the Working Group on Arbitrary Detention (Iraq, USA) on Tariq Aziz, 2008 (UN Doc. A/HRC/7/4/Add.1) pp. 4- §19 9; Moiseyev v. Russia (62936/ 00), European Court §210 (2008); see Concluding Observations of the Committee against Torture: Netherlands, / UN Doc. CAT/C .§14 (2009) NLD/CO/4.

Concluding [753] observations of the Human Rights Committee: Poland, / UN Doc. CCPR/C §20 (2010) Pol/CO/6; see also Austria, / UN Doc. CCPR/C/aut §16 (2007) CO/4 , Gridin v. Russian Federation, / UN Doc. CCPR .5/§8 (2000) C/69/D/770/1997.

Special [754] Rapporteur on human rights and counter-terrorism, Egypt, UN §36 (2009) Doc. A/HRC/13/37/Add.2; see 223/2008) UN Doc. A/63) §39; see alsoCantoral-Benavides v. Peru, Inter-American Court, §128-§127 (2000).

Principle [755] 8 of the Basic Principles on the Role of Lawyers, Principle 18 (4) of the Body of Principles, and Rule 93 of the Standard Minimum Rules.

European Court, Öcalan v. Turkey, (46221 / 99) Grand Chamber §133- §132 (2005) , Brennan v. United Kingdom (3986/98), (2001) §63- §58; see Rapacki v. Poland (52479/79/99), European Court, §62- §53 (2009).

The European Court determined that, on exceptional circumstances, the confidentiality of communications may be lawfully restricted

However, it clarified that the restrictions that can be imposed must be stipulated in law, imposed on the basis of a judicial order, and must be commensurate with a legitimate purpose - for example, to prevent the occurrence of a serious crime that could lead to death or injury - and that its imposition must be accompanied by the existence of sufficient guarantees to prevent its misuse [756] .

Council of Europe standards relevant to conventions that are not treaties, including those related to European prison rules, include such jurisprudence [757] .

Communications between a detained or imprisoned person and his lawyer shall not be admissible as evidence against him, unless they are related to the commission of an ongoing or planned crime [758] .

8- Renunciation of the right to a lawyer

Accused individuals may, consistent with a person's right to represent themselves, decide that they do not need to be represented by a lawyer during the investigation and pre-trial stages, and represent themselves instead [759] .

A person's renunciation of their right to legal representation, including during an investigation, must be decided unequivocally and should be accompanied by adequate safeguards [760] .

For example, to consent to the waiver of the right to the presence of a lawyer during an investigation, the ICC requires that this be requested in writing and, if possible, recorded on audio or video tape [761] .

It should be shown that the person concerned has a reasonable ability to assess the possible consequences of his/her renunciation of this right [762] .

([756]) Erdem v. Germany (38321 / 97), ECtHR §69- § 65 (2001), Lanz v. Austria (24430 / 94), ECtHR §53- § 46 (2002); see Guideline 9(3) (1) and(4) of the Council of Europe Guidelines on Human Rights and Counter-Terrorism.

([757]) Rule 23/5 of the European Prison Rules..

Principle 18[758] (5) of the Set of Principles..

([759]) Article 14 (3) (d) of the International Covenant, Article 7 of the African Charter, Article 8 (2) (d) of the American Convention, Article 16 (3) of the Arab Charter, and Article 6 (3) (c) of the European Convention.

See Article 55 (2) (d) of the Rome Statute.

([760]) See Principle 28§ 8 of the Principles of Legal Aid.

([761]) Rule 112 (1) (b) of the Rules of Procedure and Evidence of the International Criminal Court..

([762]) European Court: Beshchalnikov v. Russia (7025/04), §80 (2009) , Galstian v. Armenia (26986 / 03), §92-§90 (2007); see Sidovich v. Italy (56581 / 00), Grand Chamber §87-§86 (2006).

The Committee against Torture has expressed concern about reports that police detainees in Azerbaijan have been forced to renounce their right to a lawyer [763].

A person who has waived his right to a lawyer has the right to reverse this decision.

The right to represent oneself, including during pre-trial proceedings, may be subject to restrictions, in the interest of justice [764].

Fourth: Hearing the statements of the seized accused

Article 36 of the Code of Criminal Procedure stipulates that: "The judicial officer must immediately hear the statements of the seized accused, and if he does not come to acquit him, he sends him within twenty-four hours to the competent public prosecution

The Public Prosecution must interrogate him within twenty-four hours, and then order his arrest or release. "

The judicial officer shall hear the statements of the arrested accused, and if he does not produce what he exonerates, he shall send it to the competent public prosecution within twenty-four hours, otherwise he must be released immediately.

Hearing the statements of the accused is not an interrogation, but it is an evidentiary procedure, and therefore it is not permissible for the judicial officer to ask many detailed questions aimed at implicating the accused in the charge, and he is also prohibited from confronting the accused with the victim. Confrontation and interrogation are investigative measures that the judicial officer is prohibited from taking, as this is the prerogative of the investigator alone [765].

The Public Prosecution shall also, when sending the accused to it within the time specified by law, interrogate him within twenty-four hours, and then issue its order either to arrest him or to release him.

The absence of the seizure report from the question of the accused or his confrontation with the victim does not invalidate it, and the matter in this regard is due to the appreciation of the trial court for the integrity of the measures taken by the judicial seizure officer [766].

Concluding [763]observations of the Committee against Torture: Azerbaijan,UN Doc §6 (2003) 1/CAT/C/CR/30 (c).

([764]) Rule 45 bis 2 of the rules of Yugoslavia..

([765]) See: Appeal No. 9588 of 60 BC issued at the hearing of November 14, 1991 and published in the second part of the Technical Office's letter No. 42 page No. 1213 rule No. 166..

([766]) See: Appeal No. 9588 of 60 BC issued at the hearing of November 14, 1991 and published in the second part of the Technical Office's letter No. 42 page No. 1213 rule No. 166..

Procedural effect of a confession made under duress

A confession is a self-confession by the accused to commit the facts constituting the crime in whole or in part [767].

One of the conditions for the validity of the confession as evidence is that the accused has made the confession in his full will and that it is issued by him voluntarily, of choice and of free will. The last paragraph of Article 55 of the 2014 Constitution stipulates that: "...The accused has the right to silence, and every statement that proves that it was issued by a detainee under the weight of something of the foregoing, or the threat of something of it, is wasted and unreliable."

The accused must have made the confession at will, away from any pressure that defects or affects his will. Any impact on the accused, whether it is violence, threat or promise, defects his will and thus corrupts his confession.

It makes no sense to confess, even if it is true, if it is the result of material or moral coercion, whatever its value, because of its impact on the will of the accused and his freedom to choose between denial and confession. The last paragraph of Article 302 of the Code of Criminal Procedure stipulates that: Every statement that is proven to have been made by one of the accused or witnesses under duress or threat of coercion is wasted and unreliable. "

The Court of Cassation ruled that: [A reliable confession must be optional, and it is not considered so even if it is true if it was issued under coercion or threat of coercion, whatever its fate, and the principle is that the court must, if it decides to rely on the evidence derived from the confession, urge the link between it and the coercion said to be obtained and deny the existence of this coercion in a reasonable inference] [768].

The plea of nullity of the confession due to its issuance under the influence of coercion is a substantive plea that the trial court must discuss and respond to, in which the Court of Cassation ruled that: [The plea of nullity of the confession due to its issuance under the influence of coercion is a substantive plea that the trial court must discuss and respond to, equal to the fact that the defendant was the one who pleaded the nullity or that one of the other defendants in the case has adhered to it][769].

It also ruled: [The original of the reliable confession must be optional, and it is no more than that - even if it is true - if it is issued after a promise, pressure or coercion, whatever its fate, and that it is one of the elements of inference that the trial court has full freedom to assess its validity and

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([767]) See: Guarantees of the accused in the stage of criminal investigation - Dr. Abdul Hamid Al-Shawarbi - Al-Maaref Establishment in Alexandria - page 415..

([768]) Appeal No. 737 of 73 S issued at the session of April 18, 2010 (unpublished).

([769]) Appeal No. 9801 of 80 S issued at the session of 13 February 2011 and published in the book of the Technical Office No. 62 page No. 59 , Appeal No. 34525 of 77 S issued at the session of 8 March 2009, Appeal No. 34294 of 77 S issued at the session of 20 January 2008, Appeal No. 1114 of 67 S issued at the session of 16 February 2006, Appeal No. 26783 of 67 S issued at the session of 19 January 2006, Appeal No. 14847 of 63 S issued at the session of 7 November 2002, Appeal No. 9496 of 63 S issued at the session of 26 September 2002.

value in evidence, it has the unqualified discretion to assess the invalidity of the defendant's claim that his confession is due to coercion or that it was issued without free will from him as long as it is based on justifiable reasons, and the contested judgment was offered to pay an unreasonable response and was not paid by his right, and he did not mean to scrutinize it until the point of it because of his connection with the fact of the case and its relevance to the investigation of the evidence in it, it, it is above the deficiencies that he has betrayed, it was tained by violating the right of defense, which requires its reversal and return[770].

If the court decides to rely on the evidence of guilt derived from the confession of the accused to examine the link between that confession and the injuries said to have been obtained to coerce the accused against him, otherwise its judgment is tainted by invalid deficiencies, and is not immune from that invalidity and the other evidence on which its judgment is based, the Court of Cassation ruled that: [It is decided that the confession relied upon as evidence in the case must be optional issued by free will, so it is not valid to rely on the confession - even if it is true - when it is the result of coercion, no matter what Whereas, the principle is that the court, if it deems it necessary to rely on the evidence derived from the confession, to examine the link between it and the injuries said to have occurred to coerce the appellant, and to deny that it has made a reasonable inference, and since it is established from the records of the contested judgment that the court presented the appellant's defense of the invalidity of his confession based on the statement of its confidence in him and the absence of evidence from the papers without being exposed to the link between this confession and the fact that the appellant raised the minutes of the trial session that he suffered a fracture in his right arm as a result of the physical coercion that he signed without the court referring to those The injury and exposure to the link between it and the confession, its judgment is tainted by the invalid deficiency and is not immune from the invalidity of the other evidence on which it is based, as the evidence in the criminal articles is supportive and complements each other, including collectively the doctrine of the judge is formed so that if one of them falls or is excluded, it is not possible to identify the amount of impact that the invalid evidence had in the opinion reached by the court or to determine what result it would have reached if it had realized that this evidence does not exist[771].

The Court of Cassation argued that the plea of nullity of the confession because it was issued under the influence of coercion is an objective plea, which does not fall among the defenses related to public order, and it follows that it may not be raised for the first time before the Court of Cassation: [It is decided that the plea of nullity of the confession may not be raised before the Court of Cassation - as long as the records of the judgment do not bear its elements - because it is one of the legal defenses that mix with reality and require an objective investigation that distances itself from the function of the Court of Cassation, and therefore it is not accepted by the appellants after

(770) Appeal No. 34150 of 77 S issued on June 11, 2008 (unpublished).

(771) Appeal No. 7555 of 69 S issued on January 27, 2008 (unpublished).

the obituary on the court to respond to a defense that was not raised before it and it is not challenged for the first time before the Court of Cassation][772] .

The Court of Cassation has even gone further by ruling that the defendant's statement (that the defendant's statements in the investigations were affected by his threat and intimidation by the police) without showing the face of what makes him confess and that it cannot be said that this phrase constitutes a defense to the invalidity of the confession or refers to the invalidated coercion: [Since it was established from the trial minutes that the appellant or his defender did not defend the invalidity of his confession to the prosecution investigation because it was the result of coercion, and the ends of what the defender of the appellant indicated by saying (that the statements of the accused in the investigations were affected by his threat and intimidation by the police and that they told him to confess in order to be a fraud case) without showing the face of what he attributes to his confession and that it cannot be said that this phrase constitutes a defense to the invalidity of the confession or refers to the invalidated coercion. Whereas, the contested judgment relied in its conviction on the appellant's confession after he was reassured of his safety - and it was not acceptable for the appellant to raise the forced plea in his regard for the first time before the Court of Cassation, as it requires an investigation from which the function of this court recedes, and then the obituary in this regard is not valid][773] .

It also ruled that the defendant's statement that his confession was the result of moral coercion represented by the arrest of his family is not a defense to the invalidity of the confession, the trial court must examine it and respond to it: [Whereas it was clear from reference to the minutes of

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([772]) Appeal No. 5173 of 4Q issued at the session of 20 May 2014 and published in the letter of the Technical Office No. 65 page No. 442, Appeal No. 26503 of 75Q issued at the session of 6 January 2013 and published in the letter of the Technical Office No. 64 page No. 33, Appeal No. 36048 of 74Q issued at the session of 27 November 2012 and published in the letter of the Technical Office No. 63 page No. 790 , Appeal No. 37273 of 74Q issued at the session of 25 November 2012 and published in the letter of the Technical Office No. 63 page No. 777 , Appeal No. 3746 of 80 S issued at the session of January 2, 2012 and published in the letter of the Technical Office No. 63 page No. 41, Appeal No. 23979 of 73 S issued at the session of March 16, 2010, Appeal No. 20251 of 72 S issued at the session of November 23, 2009, Appeal No. 10118 of 78 S issued at the session of November 21, 2009 and published in the letter of the Technical Office No. 60 page No. 477 , Appeal No. 14527 of 72 S issued at the session of October 21, 2009 Published in Technical Office Letter No. 60, page No. 354, Appeal No. 7961 of 78 S issued at the hearing of 14 May 2009 and published in Technical Office Letter No. 60, page No. 246, Appeal No. 10938 of 77 S issued at the hearing of 2 March 2008 and published in Technical Office Letter No. 59, page No. 172, Appeal No. 51030 of 74 S issued at the hearing of 10 July 2006, Appeal No. 4184 of 73 S issued at the hearing of 29 September 2003 and published in Technical Office Letter No. 54 Page No. 884, Appeal No. 29650 of 70 S issued at the session of April 17, 2003 and published in the Technical Office's letter No. 54 Page No. 569, Appeal No. 7981 of 70 S issued at the session of February 8, 2002 and published in the Technical Office's letter No. 52 Page No. 243, Appeal No. 5223 of 70 S issued at the session of February 4, 2001 and published in the Technical Office's letter No. 52 Page No. 205, Appeal No. 17411 of 69 S issued at the session of April 3, 2000 and published in the Technical Office's letter No. 51 page No. 373, Appeal No. 26293 of 67 s issued at the session of March 13, 2000 and published in the Technical Office's book No. 51 page No. 288, Appeal No. 20205 of 67 s issued at the session of October 20, 1999 and published in the first part of the Technical Office's book No. 50 page No. 544, Appeal No. 8651 of 67 s issued at the session of April 20, 1999 and published in the first part of the Technical Office's book No. 50 page No. 235, Appeal No. 2370 of 62 s issued at the session of October 18, 1998 and published in the first part of the Technical Office's book No. 49 page No. 1117, Appeal No. 8744 of 66 s issued at the session of April 22, 1998 and published in the first part of the Technical Office's book No. 49 page No. 608.

([773]) Appeal No. 29650 of 70 BC issued at the session of 17 April 2003 and published in the letter of the Technical Office No. 54 page No. 569.

the trial session that the defense of the appellants did not defend the invalidity of the confession because it was the result of coercion, and all that was stated by the defender of the first appellant in this regard was that he was subjected to moral coercion and the arrest of his family, as stated by the defender of the second appellant, a phrase sent is the invalidity of the confession of the seizure record, without any of them showing the face of what challenges him to this confession, which calls into question his safety. It cannot be said that these two sent statements that he made constitute a defense of the invalidity of the confession or refer to the invalidated coercion, and all that can be done is to question the evidence derived from the confession, so that the court does not rely on it, it is not acceptable for the appellant to raise it for the first time before the Court of Cassation, as it requires an objective investigation that recedes About him the function of the Court of Cassation] [774].

Search is an investigation procedure that aims to seize the evidence of the crime under investigation and all that is useful in revealing the truth in order to prove the commission of the crime or its attribution to the accused. It focuses on the person of the accused and the place where he resides, and it may extend to persons other than the accused and their residences under the conditions and circumstances specified in the law [775].

The power of judicial officers to search and confiscate is one of the serious powers that, when exercised, must be carefully balanced between their duty to implement the law and maintain order, and their duty to protect society and respect human rights, including their right to privacy. The right to privacy means that every person has a special area in which he enjoys protection from any external interference by others, including official authorities. Therefore, this right may not be violated except in the cases specified by law and in accordance with procedures.

The human right to private life is one of the fundamental rights protected under international law: "No one shall be subjected to arbitrary interference with his private life, family, home or correspondence, or to campaigns against his honor and reputation, and everyone has the right to the protection of the law against such interference or campaigns" [776].

This right is affirmed and emphasized in the International Covenant on Civil and Political Rights, article 17 of which states: "1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation;

2. Everyone has the right to the protection of the law against such interference or attacks."

Accordingly, the intervention of the police and other security services in the private life of individuals must be governed by law, and this requires that search or confiscation procedures be

([774]) Appeal No. 26293 of 67 S issued at the session of March 13, 2000 and published in the letter of the Technical Office No. 51 page No. 288.

([775]) Article 311 of the Judicial Instructions of the Public Prosecution.

([776]) Article 12 of the Universal Declaration of Human Rights.

carried out in accordance with the law, otherwise they become null and void. Everything that is based on nullity is null and void, and cannot be built upon or taken into account legally.

It is an essential element of the validity of the search or seizure that it be ordered by a competent judicial authority, that the person concerned be notified of the search warrant and its reasons, that this be done in the presence of witnesses and that all seized objects be recorded in an official record.

Subsection 8: Inspection

First: The subject of the inspection

1- Person searched

The principle is that personal freedom is a natural right, and it is inviolable and inviolable. Except in the case of flagrante delicto, no one may be arrested, searched, imprisoned, or restricted in any way except by a reasoned judicial order required by the investigation [777].

Moreover, there are additional rules and standards to which the inspection process must be subjected, if the person's body is searched, which may require stripping the person of his clothes to search him, searching the cavities of his body, or obtaining fingerprints, a blood sample or DNA for analysis, all of which affect the dignity and privacy of the person. Thus, the body search must be carried out in a professional and impartial manner, with the knowledge of a person of the same sex, and in all cases, the search must be carried out under the supervision of a senior official or a judicial authority.

A person as a searchable place means everything related to his physical entity, the clothes he wears, the luggage and movable things he carries, or what he uses as his own property, shop or private car [778].

It should be noted here that the presence of a person in detention or imprisonment does not imply the violation of the full right to privacy, but rather the restriction of that right to the extent necessary to maintain security, order and safety in places of detention, whether in police stations or in prisons and other penal institutions.

This means - in light of the other provisions of the Constitution regulating public rights and freedoms and their guarantees - that arrest warrants, searches, detention, prohibition of movement or travel, or restrictions on their freedom in any other way - are criminal procedures that affect personal freedom - which may only be regulated by a law issued by the legislative authority and not by any other authority based on a mandate or by a subordinate instrument [779].

([777]) Article 54 of the Constitution..

([778]) Article 312 of the Judicial Instructions of the Public Prosecution.

([779]) See Appeal No. 2361 of 55 S issued in the session of November 15, 1988 and published in the second part of the Technical Office's book No. 39 page No. 1159 rule No. 194.

With the intention of searching the person means searching and excavating his body and clothes with the intention of finding the thing to be seized [780].

The search of the accused requires limiting his personal freedom to the extent necessary to implement it without extending to impairing the integrity of the body or other rights inherent in his personality. If the accused hides the thing in the place of nakedness from him, it is not permissible to violate it, but in this case it is permissible to resort to a doctor to remove this thing as an expert who provides his experience in adjusting the evidence in a way that the ordinary person cannot do[781].

2- The place under inspection

The dwelling is every private place where a person resides permanently or temporarily and goes to his dependencies such as the garden, the poultry barn, and the warehouse. It extends to private places where a person resides, even for a specific period of the day, such as the doctor's office and the lawyer's office. The sanctity of private places does not apply to farms and fields not connected to dwellings [782].

According to the Egyptian Code of Criminal Procedure, "Persons, residences, postal correspondence, wired and wireless conversations and personal conversations are inviolable, and the inviolability of the dwelling includes every fenced place or surrounded by any barrier whenever it is used or prepared for shelter or for storing things, and the inviolability of correspondence prevents access to it during its transfer or transmission from one person to another, whether postal or telephone, and it is not permissible to search persons, enter dwellings, view postal correspondence, or record wired, wireless or personal conversations, as well as seize things except by order of the Public Prosecution during the investigation, and from the judge during the trial" [783]

International standards require that the motivation for the inspection process is the existence of objective and verifiable facts, and it does not depend solely on the “sensory sense” of the law enforcement officials. It also requires that those responsible for the inspection be held accountable for its legality and for any damage or damage resulting from it. Moreover, there is a duty to maintain the confidentiality of the information they may obtain during their inspection. Needless to say, search and confiscation procedures must be subject to the principles governing the tasks and powers of the police in general, which are legality: always in accordance with the law, necessity: necessary and necessary so that the legal purpose can only be achieved through it and after

(780) See Appeal No. 44270 of 85 S issued at the 22nd session of October 2016 and published in the Technical Office's letter No. 67, page No. 735, rule No. 94, Appeal No. 405 of 36 S issued at the 16th session of May 1966 and published in the second part of the Technical Office's letter No. 17, page No. 613, rule No. 110.

(781) Article 339 of the Judicial Instructions of the Public Prosecution.

(782) Article 313 of the Judicial Instructions of the Public Prosecution.

(783) Articles 131 and 132 of the Criminal Procedure Code, as well as articles 133 to 164, which establish the general legal framework for inspection.

exhausting other means, and proportionality: to be resorted to to the extent necessary, only, to implement the law without arbitrariness or abuse and accountability: always subject to monitoring and punishment to prevent violation of the law and infringement of the rights of individuals and punish those responsible for violations.

Second: Conditions to be met at the place of inspection

The first condition: It must be specific or identifiable

The search is required to respond to a specific or identifiable place, and for this purpose, it is not required to mention the name of the person or owner of the dwelling authorized to be searched, but it is sufficient just to be identifiable by the circumstances surrounding the search order.

In this regard, the Court of Cassation ruled that the order issued by the Public Prosecution to search a specific person and whoever may be present with him or in his place or residence at the time of the search without indicating his name and surname - on the assessment of his participation with him in the crime or his connection with the incident for which the search warrant was issued - is valid in law and the inspection carried out in implementation of it is not in violation of the law, and that there is nothing wrong with the permission not to be present when it is carried out by any of those who were told in the investigation report of their contribution to the crime and their contact with it [784].

The Court of Cassation ruled that as long as the permission issued by the investigating authority to search a house on the basis that it may have something related to a crime in which this particular house has been appointed, it is true regardless of the person of the accused and the fact of his name, and that the fact of the name of the accused does not matter to the validity of the action taken against him, because the identification of this fact is, according to the original, only by the owner of the name itself, and therefore the error in the name does not invalidate the action when the person against whom it was taken is the same as intended [785].

Also, mentioning the name of the person to be searched other than his real name in the search warrant does not invalidate the search, as long as the judgment has indicated in the considerations that the person who was searched is the same one who was intended without the owner of the name who mentioned an error in the warrant[786].

([784]) Appeal No. 941 of 36 S issued at the session of June 20, 1966 and published in the second part of the Technical Office's letter No. 17 page No. 852 rule No. 161

It ruled that: [The failure to provide an accurate statement of the name of the person in the order issued to search him is not based on its nullity if it is proven that the person who was searched is in fact the person intended by the search order] Appeal No. 979 of 24 BC issued at the session of October 5, 1954 and published in the first part of the book of the Technical Office No. 6 page No. 35 rule No. 14.

([785]) Appeal No. 1141 of 15 S issued at the hearing of June 14, 1945 and published in the letter of the Technical Office No. 6P, Part No. 1, Page No. 737, Rule No. 605.

([786]) See Appeal No. 468 of 17 S issued in the session of February 10, 1947 and published in the letter of the Technical Office No. 7 P Part No. 1 Page No. 289 Rule No. 295

It also ruled that the issuance of a search warrant in the name of a person known for him in the environment in which he works does not affect his health[787].

And that the failure to mention the name of the person authorized to search him in the order issued to search him is not based on its invalidity if it is proven that the person who was searched is in fact the person intended by the search order [788].

It also does not affect the validity of the search warrant without indicating the age of the person authorized to search it as long as he is the person concerned with the warrant [789].

The Court of Cassation ruled that the issuance of a search warrant to the judicial officer to search the person of the accused, his residence or the annexes of his residence, the meaning of the word "or" is permissibility, to the effect that the permission in fact of his order and goal was issued to the judicial officer to search the person, residence and annexes of the accused's residence, according to the practice of work, and with the recognition of the issuance of permission to search the person of the accused, his residence or the annexes of his residence, the indication of the case is that the intended meaning of the word "or" is permissibility - for its arrival before what is permissible to collect - which interrupts the release of scarring and the permissibility of searching the person, residence and annexes of the accused's residence together, and then the search

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The Court of Cassation ruled that: [It is decided that the error in the name of the person to be searched does not invalidate the search as long as the person who was searched is in fact the person who is the subject of the search warrant and what is meant by it] Appeal No. 4077 of 57 Q issued at the session of March 17, 1988 and published in the first part of the Technical Office's letter No. 39 page No. 435 rule No. 63

It ruled that: [When the plea of nullity of the search is based on the fact that it is related to a person other than the name of the accused, and the court had been subjected to what the accused raises in this regard and decided that the person who was searched is in fact the person intended by the search warrant, if it rejected this plea, it did not make a mistake] Appeal No. 236 of 24 BC issued at the hearing of 12 April 1954 and published in Part III of the Technical Office's book No. 5 page No. 509 rule No. 172.

([787]) Appeal No. 1827 of 20 S issued at the session of April 16, 1951 and published in the third part of the book of the Technical Office No. 2 page No. 974 rule No. 357.

([788]) See Appeal No. 6604 of 84 BC issued at the session of March 17, 2016 and published in the letter of the Technical Office No. 67, page No. 380, rule No. 43

The Court of Cassation ruled that: [the error in the name, but the omission to mention it altogether, does not invalidate the procedure when the judgment proves that the person searched is the same as the search warrant] Appeal No. 2358 of 55 BC issued at the session of January 16, 1986 and published in the first part of the book of the Technical Office No. 37 page No. 94 rule No. 21

It also ruled that: [The omission of the name of the person in the order issued to search him is sufficient to designate his dwelling, which is not invalid when it is proven to the court that the person who was searched and searched his dwelling is the same as the search warrant. If the trial court has concluded in a sound reasoned logic that the dwelling of the appellant is the same as the dwelling intended in the search warrant, which was described in the order as the dwelling adjacent to the dwelling of the other accused occupied by some members of his family, which means that the search warrant was focused on the appellant as one of his relatives and that the investigations indicated that she shares possession of narcotic jewels with him, then there is no need to obtain permission from the judge to search her dwelling. [Appeal No. 2340 of 30 S issued at the session of February 13, 1961 and published in the first part of the book of the Technical Office No. 12 page No. 209 rule No. 34.

([789]) Appeal No. 22180 of 75 S issued at the session of November 8, 2012 and published in the letter of the Technical Office No. 63, page No. 635, rule No. 114.

conducted by the officer of the incident was within the scope of the search warrant and signed correctly[790].

Whenever a search warrant is issued without specifying a specific dwelling for the accused, it includes every dwelling for him, regardless of its multiplicity [791].

The issuance of permission to search a person and his residence does not justify the search of his wife unless there is a case of flagrante delicto against her or there is sufficient evidence to charge her [792].

The second condition: To be a project

The search is required to respond to a legally permissible place, and accordingly it is not permissible to search embassies, the homes of ambassadors, and the diplomatic corps, as it is prohibited according to the rules of public international law.

It is not permissible to search the defender of the accused or the consultant expert to seize the papers and documents handed over by the accused to him to perform the task entrusted to him, nor the correspondence exchanged between them regarding the litigation [793].

Every person has the right to the inviolability of his private life, and every person has certain things that he has surrounded with secrecy, and out of respect for this, the Constitution guarantees all people the inviolability of private life, as well as the inviolability of their homes as a repository of their secrets, which may not be entered, searched, monitored or intercepted except by a reasoned judicial order, and in the cases and in the manner prescribed by law)[794].

As recognized by all international human rights instruments, Article 9 of the American Declaration of the Rights and Duties of Man states: "Everyone has the right to the sanctity of his home."

The Declaration of Human Rights of the Cooperation Council for the Arab States of the Gulf stipulates in its article 16 that: "Private life is inviolable for every human being, and it is not permissible to infringe upon its inviolability, the affairs of his family, his residence, his correspondence, or his communications, and he has the right to request its protection."

([790]) Appeal No. 3166 of 70 S issued in the session of February 3, 2008 and published in the book of the Technical Office No. 59 page No. 95 rule No. 16.

([791]) Appeal No. 11814 for the year 62 S issued at the hearing of May 15, 1994 and published in the first part of the book of the Technical Office No. 45 page No. 668 rule No. 102.

([792]) Appeal No. 1262 of 36 S issued at the session of November 29, 1966 and published in the third part of the book of the Technical Office No. 17 page No. 1173 rule No. 221.

([793]) Article 96 of the Criminal Procedure Law stipulates that: "It is not permissible for the investigating judge to seize the papers and documents handed over by the accused to them to perform the task entrusted to them, nor the correspondence exchanged between them in the case."

([794]) Articles 57 and 58 of the 2014 Constitution.

Article 17 of the Arab Charter on Human Rights stipulates that: "Private life is inviolable. Violating it is a crime. This private life includes the privacy of the family, the inviolability of the home, the confidentiality of correspondence and other means of private communication."

Article 18 of the Cairo Declaration on Human Rights in Islam states: “(a) Everyone has the right to live in security for himself, his religion, his family, his honour and his property;

(b) A person has the right to independence in the affairs of his private life in his home, family, property and communications, and it is not permissible to spy on him, censor him, damage his reputation, and avoid protecting him from any arbitrary interference;

(c) The dwelling is inviolable in all cases and it is not permitted to enter it without the permission of its family or illegally. It is not permitted to demolish it, confiscate it, or displace its family from it. "

Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms states: “1. Everyone has the right to respect for his private and family life and for the inviolability of his home and correspondence;

2. No interference by a public authority may take place in the exercise of this right, except to the extent that the law provides for such interference, and in which the latter constitutes a necessary measure in a democratic society, for national security, public safety, the economic well-being of the country, the defense of the regime, the prevention of penal offenses, the protection of health or morals, or the protection of the rights and freedoms of others. "

The Court of Cassation has ruled that: [The inviolability of the dwelling derives from the inviolability of the private life of its owner, the meaning of the dwelling is determined in the light of the link of the dwelling to the private life of its owner, as it is every place where a person resides permanently or temporarily as long as he is in the possession of its owner, even for a period of time, and it is linked to it and makes it a warehouse for his secret, and he can prevent others from entering it except with his permission, and the police officer or public authority may not enter it except in the cases specified in the law and in the manner stipulated in it. It was one of the established principles that the entry of homes in other than these cases is prohibited, which in itself leads to the invalidity of the search. The law set limits and conditions for conducting house searches that are valid only by verifying them and making the search include two pillars, the first of which is entering the dwelling and the second is searching or searching for things that are useful in revealing the truth, and that the guarantees specified by the legislator apply to the two pillars together to one degree, as the search of private places is based on a series of successive actions in its course and begins with the entry of the judicial officer in the haunted place to be entered and searched, and the street in these successive actions is required from its inception to The end of its order is to abide by the restrictions that the street has made a condition for the validity of the inspection, and then if the judicial officer who entered the residence of nurses and paramedics is not authorized by the investigation authority or is not licensed by the street to enter it in the cases specified in the text,

his entry shall be invalidated and all the seizures and searches that have occurred in this entry shall be invalid[795].

The Court of Cassation also ruled that: [The incompleteness of the construction of the dwelling or the failure to install doors or windows for it does not suggest that it is a private place as long as it is in the possession of its owner who resides in it even for some time and is linked to it and makes it a warehouse for his secret and can prevent others from entering it except with his permission, it is not considered an abandoned place that others are allowed to enter without his permission and it is not permissible for public authority men to enter it except in the cases indicated in the law][796].

It ruled that: [The sanctity of the store derives from its contact with the person of its owner or his residence, so as long as there is an order from the Public Prosecution to search one or both of them, it necessarily includes what is related to it and the store as well, and therefore the nullity of the search of the store by not explicitly stipulating it in the order is not supported by the law][797].

The search of the judicial officer of the place authorized to be searched shall be in the presence of the accused or his representative whenever possible, otherwise it must be in the presence of two witnesses who are as far as possible from his adult relatives or from those living with him in the house or from neighbors, and this shall be recorded in the minutes [798].

Third: Special Cases in Inspection of Places

1- Entering public shops

Judicial officers, as administrative officers, may enter public shops to verify the implementation of their laws and regulations. Judicial officers may inspect shops without prior notice, and they may enter these shops and view all papers. The violations resulting from the inspection shall be recorded in a report prepared for that [799].

The origin is that the men of public authority in their areas of competence enter public shops open to the public to monitor the implementation of laws and regulations - an administrative procedure restricted to the purpose of the above statement and does not go beyond it to exposure to the freedom of persons or the exploration of closed things that are not apparent unless the officer is

([795]) Appeal No. 1341 of 75 S issued at the 20th session of October 2012 and published in the Technical Office's letter No. 63, page No. 536, rule No. 92, Appeal No. 10105 of 64 S issued at the 21st session of April 1996 and published in the first part of the Technical Office's letter No. 47, page No. 544, rule No. 76.

([796]) Appeal No. 674 of 56 S issued at the session of June 4, 1986 and published in the first part of the book of the Technical Office No. 37 page No. 640 rule No. 121.

([797]) Appeal No. 1538 of 44 S issued at the 22nd session of December 1974 and published in the first part of the technical office book No. 25 page No. 876 rule No. 190, Appeal No. 1302 of 47 S issued at the 26th session of February 1978 and published in the first part of the technical office book No. 29 page No. 185 rule No. 32.

([798]) Article 341 of the Judicial Instructions of the Public Prosecution.

([799]) Article 28 of Law No. 154 of 2019 regarding the issuance of the Public Shops Law, and Article 24 of Prime Minister Decision No. 590 of 2020 regarding the issuance of the executive regulations of the Public Shops Law.

aware of his sense and before exposure to them, but what is in them, which makes it permissible to possess or obtain inspection, so the inspection in this case is based on the case of flagrante delicto and not on the right to access public shops and supervise the implementation of laws and regulations[800].

The lesson in public places is not the names that are given to them, but the reality of their matter [801].

If the accused makes his dwelling a place open to the public, which people enter for gambling and drinking, this makes his home a public place that the public cheats without distinction. If an arrestee enters it without the permission of the Public Prosecution, his entry is justified by the decision that a man of public authority in his jurisdiction has access to public shops or open to the public to monitor the implementation of the law and regulations, and he may accordingly control the crimes he witnesses in flagrante delicto [802].

Whereas the principle was that the judicial officer had access to public shops open to the public to monitor the implementation of laws and regulations, provided that this is done at the times when those shops usually operate, and the reason for the license is that the shops at the time they are open to the public cannot be closed to the officer charged with monitoring the implementation of laws purely because he is such and not from individual people, but in times when the public is not

([800]) See Appeal No. 18720 of 62 S issued at the 8th session of October 2001 (unpublished), Appeal No. 13648 of 4 S issued at the 27th session of March 2014 and published in the Technical Office's letter No. 65, page No. 177, rule No. 19, Appeal No. 30812 of 67 S issued at the 18th session of April 2007 and published in the Technical Office's letter No. 58, page No. 376, rule No. 72, appeal No. 23077 of 66 S Issued at the session of March 12, 2006 and published in the technical office letter No. 57, page No. 391, rule No. 43, appeal No. 11111 of 64 s issued at the session of May 7, 1996 and published in the first part of the technical office letter No. 47, page No. 583, rule No. 81, appeal No. 21378 of 59 s issued at the session of October 26, 1993 and published in the first part of the technical office letter No. 44, page No. 876, rule No. 137, appeal No. 3778 of 57 s issued at the session of February 7, 1989 and published in the first part of the technical office letter No. 40 Page No. 193 Rule No. 33, Appeal No. 2806 of 57 S issued at the session of November 1, 1987 and published in Part II of the Technical Office's letter No. 38 Page No. 917 Rule No. 169, Appeal No. 5517 of 55 S issued at the session of February 2, 1986 and published in Part I of the Technical Office's letter No. 37 Page No. 217 Rule No. 45, Appeal No. 119 of 47 S issued at the session of May 15, 1977 and published in Part I of the Office's letter Technical No. 28 Page No. 591 Rule No. 125, Appeal No. 1814 of 45 S issued at the hearing of February 16, 1976 and published in the first part of the Technical Office's letter No. 27 Page No. 225 Rule No. 45, Appeal No. 1239 of 35 S issued at the hearing of December 28, 1965 and published in the third part of the Technical Office's letter No. 16 Page No. 974 Rule No. 185, Appeal No. 1312 of 22 S issued at the hearing of July 9, 1953 and published in the third part of the Technical Office's letter No. 4 Page No. 1151 Rule No. 386.

([801]) Appeal No. 13648 of 4Q issued at the 27th session of March 2014 and published in the Technical Office's letter No. 65, page No. 177, rule No. 19, Appeal No. 1814 of 45Q issued at the 16th session of February 1976 and published in the first part of the Technical Office's letter No. 27, page No. 225, rule No. 45

The Court of Cassation ruled that: [If the judgment was deduced from what the officer proved in his record and from the statements of the appellants in the police and prosecution investigations, that the place of seizure is a place open to the public prepared by the convict to make tea and serve it to customers, and that it is considered a public place, then the conclusion of the judgment in this regard is an understanding of the reality in the case, which falls within the jurisdiction of the trial court, and the Court of Cassation has nothing to do with it]. Appeal No. 386 of 43 BC issued at the 27th session of May 1973 and published in the second part of the Technical Office's letter No. 24, page No. 649, rule No. 133.

([802]) Appeal No. 2045 of 49 S issued on March 1, 1981 and published in the first part of the book of the Technical Office No. 32 page No. 190 rule No. 30.

allowed to enter them, those shops take the ruling of the dwelling, it does not address in terms of place what used to be housing and includes in terms of time only the working times without the times when they are closed, nor in terms of purpose except to the extent that they can verify the implementation of those laws and regulations without exposure to other things and places that are outside this scope[803].

2- Entering houses for the purpose of inspection

Article 58 of the Constitution stipulates that: "Homes are inviolable, and except in cases of danger or distress, they may not be entered, searched, monitored or tapped except by a reasoned judicial order, specifying the place, timing and purpose, all in the cases indicated in the law, and in the manner stipulated. Those in homes must be warned when entering or searching them, and informed of the order issued in this regard." [804].

It is not permissible for the men of the authority to enter any haunted place except in the cases specified in the law, or in the case of seeking assistance from within, or in the case of fire, drowning, or the like[805].

The meaning of the dwelling is determined in the light of its connection with the private life of its owner, as it is every place where a person resides permanently or temporarily and goes to its subordinates. It also extends to the private places in which he resides as long as he is in the possession of its owner, even for a period of time, and is linked to it and makes it a warehouse for his secret, and he can prevent others from entering it except with his permission. The police officer or public authority may not enter it except in the cases specified in the law and in the manner stipulated in it [806].

However, if the place is open to the public and permitted to enter it for each Tariq without discrimination, his example deviates from the prohibition stipulated in Article 45 of the Code of

(803) In that, the Court of Cassation ruled that: [... It is established from the records of the contested judgment that the appellants' defense regarding the plea of nullity of the arrest and search for the absence of flagrante delicto occurred by stipulating that "the hour of entering the cafe at 1.50 am is closed, so it is not permissible for the officer to enter it because it takes the ruling of the residence." If it is established from the contested judgment that the incident of the lawsuit occurred by saying "that in the event of the passage of the first lieutenant..... Assistant Detective Center ..... The second witness in the district of the center and their visits to the defendant's cafe..... See the defendants ..... Sitting inside and the last defendant holding a hookah and found on the table in front of them three stones, each of which is topped with a narcotic banjo plant. The first defendant was holding a paper roll with a banjo plant and placing it on the stone...." It required the court - in order to achieve the defense of the appellants - to verify the time of the incident and whether the cafe was open to the public or closed and how the officers of the incident entered it to verify the validity or invalidity of the payment in terms of fact and law together, but it did not, its judgment is defective in deficiencies...] Appeal No. 7088 of 69 s issued at the hearing of March 23, 2003 and published in the book of the Technical Office No. 54 Page 482 Rule No. 53, and see: Appeal No. 1605 of 59 s issued at the hearing of January 31, 1991 and published in the first part of the book of the Technical Office No. 42 Page 213 Rule No. 29, Appeal No. 1793 of 39 s issued at the hearing of February 9, 1970 and published in the first part of the book of the Technical Office No. 21 Page 260 Rule No. 64.

(804) Article 58 of the 2014 Constitution.

(805) Article 45 of Law No. 150 of 1950 regarding the issuance of the Code of Criminal Procedure.

(806) Appeal No. 9487 of 87 S issued at the session of 19 October 2019 (unpublished).

Criminal Procedure in that he may not enter it except with the permission of the judiciary, and if someone enters it, his entry is justified, and he may accordingly control the crimes he witnesses in it [807].

The Supreme Constitutional Court ruled that: [The Constitution has been keen - for the sake of public freedoms - to ensure personal freedom to communicate with the individual since his existence. Article 41 of the Constitution affirmed that "personal freedom is a natural right and is inviolable." Article 44 of the Constitution also stipulates that "homes are inviolable." The first paragraph of Article 45 of the Constitution stipulates that "the private life of citizens is inviolable and protected by law." However, In deciding this constitutional protection, the Constitution not only included this in general terms, as did previous constitutions, which decided to ensure personal freedom and the right to security, non-arrest or detention, the inviolability of homes and the inadmissibility of entering or monitoring them (Articles 8 of the Constitution of 1923, 41 of the Constitution of 1956, and 23 of the Constitution of 1964), leaving the ordinary legislator with full authority without restrictions in regulating these freedoms, but the 1971 Constitution came with basic rules that establish many guarantees to protect personal freedom and the freedoms and sanctities it entails and raise it to the level of constitutional rules - including Articles 41 to 45 of it - where the ordinary legislator may not violate those The rules and the guarantee they contain to preserve those freedoms, otherwise his action is contrary to constitutional legitimacy

Whereas the constitutional legislator - in order to reconcile the right of the individual to personal freedom and the inviolability of his home and private life and the right of society to punish the perpetrator and collect evidence of the crime and attribute it to him - has authorized the search of the person or the dwelling as a measure of investigation after subjecting him to certain guarantees that may not be wasted, leaving the ordinary legislator to determine the crimes in which it is permissible to search and the procedures by which it is carried out. Therefore, the first paragraph of Article 41 of the Constitution stipulates that "Personal freedom is a natural right and is inviolable. Except in the case of flagrante delicto, no one may be arrested, searched, subjected to any restriction of his freedom or prevented from movement except by an order necessitated by the necessity of investigation and the maintenance of the security of society. This order is issued by the competent judge or the Public Prosecution, in accordance with the provisions of the law." Article 44 of the Constitution stipulates that "Dwellings are inviolable and may not be entered or searched except by a reasoned by judicial order in accordance with the provisions of the law." This latter text, even if he has distinguished between entering dwellings and searched them in one guarantee when it represents a violation of the inviolability of the dwellings that have been touched by the Constitution.

Whereas it appears from the interview between Articles 41 and 44 of the aforementioned Constitution that the Constitutional Legislator has differentiated in ruling between the search of persons and the search of dwellings with regard to the need for the search to be carried out in

([807]) Appeal No. 32528 of 84 S issued at the 9th session of February 2017 (unpublished).

both cases by a judicial order from those who have the authority to investigate or from the competent judge as a basic guarantee for the search to take place under the prior supervision of the judiciary, Article 41 of the Constitution exempts from this guarantee the case of flagrante delicto for the arrest and search of a person, as well as not requiring it to cause the warrant of the competent judge or the Public Prosecution to be searched, while Article 44 of the Constitution did not exclude the case of flagrante delicto from the need for a reasoned judicial order from those who have the authority to investigate or from the competent judge to search the dwelling, whether it was carried out by the same warrantor or authorized by the judicial officer to conduct it. The text of Article 44 of the Constitution referred to above is a general one that has never been answered to what it allocates or restricts, to the effect that this constitutional provision requires in all cases of house searches the issuance of the reasoned judicial order in order in order to preserve the inviolability of the dwelling, which stems from the personal freedom that relates to the individual's entity, private life and the dwelling to which he is housed. It is the subject of its secret and tranquility, and therefore the Constitution - in the circumstances in which it was issued - was keen to confirm that the sanctity of the dwelling was not violated, whether by entering or searching it, unless a reasoned judicial order was issued without excepting the case of flagrante delicto, which - according to Article 41 of the Constitution - only allows the arrest and search of a person wherever he is found. This confirms that the draft of the Committee of Freedoms formed by the People's Assembly at the time of preparing the Constitution guaranteed the text of Article 44 to exclude the case of flagrante delicto from its ruling. However, this exception was omitted in the final draft of this article and the Constitution was issued, including the current text of Article 44, in order to preserve the sanctity of dwellings on the basis of the foregoing.

Whereas the foregoing, and the text of Article 44 of the Constitution is clear, the meaning of the foregoing is that the case of flagrante delicto is not excluded from the two guarantees that he mentioned - that is, the issuance of a judicial order and that the matter is reasoned - it is not permissible to say that except for the case of flagrante delicto from the provision of these two guarantees by analogy to remove it from the guarantee of the issuance of the judicial order in the case of the search or arrest of a person, because the exception is not measured, nor is it measurable when the existence of the constitutional text is clear and does not mean This is changed by the inability of Article 44 of the Constitution, after the inclusion of these two aforementioned guarantees, to do so "in accordance with the provisions of the law" because this phrase does not mean authorizing the ordinary legislator to remove the case of flagrante delicto from the subjection of the two guarantees stipulated in the aforementioned Article 44 of the Constitution, and to say otherwise is a waste of these guarantees and to suspend their work on the will of the ordinary legislator, which is not benefited by the text of Article 44 of the Constitution. Rather, the phrase "in accordance with the provisions of the law" refers to referral to ordinary law

in determining the crimes in which a search order may be issued and explain how it is issued and why it is otherwise. Procedures by which this inspection is carried out [808].

Entering the house for other than a search is not considered an inspection, but it is just a material work necessitated by the state of necessity. As for the search, it is the search for the elements of truth in the secret warehouse in it, which is an investigation procedure, and entering the houses, even if it is prohibited for the men of the public authority in circumstances other than those indicated by the law, and other than the case of internal assistance and the cases of drowning and fire. However, these cases are not mentioned exclusively in Article 45 of the Code of Criminal Procedure, but the text added to them similar cases that are based on the state of necessity and would track the accused with the intention of executing the arrest warrant against him][809].

The presence of the accused in a coma in his home alone so that he cannot ask for help and the men of public authority show that is one of the cases of necessity that allows the men of public authority to enter the house[810].

The receipt of notifications from the neighbours of the accused to the officer of the incident that he is holding the victim in his residence and by moving he saw the victim naked from his clothes and the accused holding a knife and smelling of alcohol, so he was arrested, this case is one of the cases dealt with by the legislator in Article 45 of the Criminal Procedure Law [811].

([808]) The judgment of the Supreme Constitutional Court in Case No. 5 of 4S issued at the session of June 2, 1984 and published on June 14, 1984 in the first part of the Technical Office's letter No. 3, page 67, rule No. 12

The articles referred to in the body of the provision are Articles 41 and 44 of the 1971 Constitution, corresponding to Articles 54 and 58 of the 2014 Constitution.

([809]) Appeal No. 71261 of 76 S issued at the 3 rd session of May 2007 (unpublished), Appeal No. 71261 of 76 S issued at the 3 rd session of May 2007 (unpublished), Appeal No. 35143 of 69 S issued at the 2 nd session of October 2007 and published in Technical Office Letter No. 58 Page 557 Rule No. 108, Appeal No. 35143 of 69 S issued at the 2 nd session of October 2007 and published in Technical Office Letter No. 58 Page 557 Rule No. 108, Appeal No. 2107 of 51 s issued at the session of March 9, 1982 and published in the first part of the Technical Office letter No. 33 page No. 305 rule No. 63, Appeal No. 1289 of 37 s issued at the session of October 30, 1967 and published in the third part of the Technical Office letter No. 18 page No. 1047 rule No. 214, Appeal No. 1703 of 33 s issued at the session of February 3, 1964 and published in the first part of the Technical Office letter No. 15 page No. 105 rule No. 22, Appeal No. 2013 of 32 s issued At the session of December 17, 1962, published in the third part of the Technical Office's letter No. 13, page No. 853, rule No. 205, Appeal No. 1791 of 28 S issued in the session of March 31, 1959 and published in the first part of the Technical Office's letter No. 10, page No. 391, rule No. 87.

([810]) Appeal No. 64011 of 76 S issued in the session of May 2, 2007 and published in the letter of the Technical Office No. 58 page No. 386 rule No. 75.

([811]) Appeal No. 10566 of 77 S issued on January 10, 2011 (unpublished)

The Court of Cassation ruled that: [Whereas the contested judgment was between the fact of the lawsuit in saying: "Following a distress that occurred from one of the residential apartments in the city of..... The secret policeman answered/ ..... So he went to its source and the apartment turned to the source of distress open the door and went towards it, so he met with one of the women, who is called/ ..... The wife of the defendant of the customary contract, who resides with him in the same dwelling, summoned him to her husband and allowed him to enter the apartment with the intention of raising the infringement on her, and told him that a marital dispute between her and her husband for her desire to leave the city, but he refused, so he infringed on her, and added that the accused is using narcotic substances and pointed to a glass jar with a rolled cigarette in it, so he opened the jar and found inside it the seeds of the cannabis plant and a paper roll with two pieces of the essence of cannabis, and the accused admitted to possessing the drug with the intention of consumption, and when the undercover policeman addressed the head of the detective unit, he asked his wife/ ..... She wanted to guide about other narcotic substances inside the defendant's

residence, so he moved with her after taking a declaration of consent to the inspection to where she guided a plastic bag behind the kitchen refrigerator, which showed that it contained a roll inside the cannabis plant, and in the face of the defendant, he admitted to possessing the drug with the intention of using it as well, and the chemical laboratory report proved that the seized substance is the essence of the cannabis, and inside the cigarette are parts of the cannabis plant and a quantity of cannabis plant seeds, and inside the two rolls is the cannabis plant "then The judgment stated the evidence of guilt derived from the statements of the prosecution witnesses to the same meaning that it embraced for the image of the incident in the advanced context, and then presented the plea of the appellant to invalidate the arrest and search for lack of permission from the Public Prosecution and responded by saying: "As for the plea of invalidity of arrest and search for lack of a prosecution permit, it was argued that the law gave the police the right to enter homes and public places not for the purpose of searching, but for considerations related to public security and ensuring the application of regulations and laws governing public places. The legislator was keen to provide for this with regard to homes, Article 45 of the Code of Criminal Procedure stipulates that It is not permissible for the men of the authority to enter any haunted place except in the cases indicated in the law or in the case of requesting assistance from inside or in the case of fire, drowning or the like. In the cases indicated in the law, it means cases of entry for the purpose of inspection for an investigation procedure, but other cases, which are requesting assistance or help, or the case of fire and cases of necessity in general. Entering the house is not considered an investigation procedure and is not considered an inspection in the legal sense. It follows that it is not permissible for the police officer if In one of these cases, he entered the house to conduct a search. However, if he came across a crime in flagrante delicto, and this was an accident, he may seize it, resulting in all the effects of the case of flagrante delicto. Also, if there is a case during his stay in the house that allows arrest and personal search, he may do so based on the law and not based on the right of search to enter the house, as entry does not entitle him to this right, and since the above was the case, and the entry of the men of the public authority in this incident to the residence of the accused was to request Rescue and distress from the victim who shares this dwelling in the first stage of seizure is a valid satisfaction free of coercion or a defect of consent, and it occurred before entering the house for inspection in the second stage of seizure, and then the protection surrounded by the street is the inspection of houses from which they fall when their entry is after the explicit, free and unequivocal consent of their owners obtained from them before entering, and it goes without saying that it is decided that the wife or girlfriend of the owner of the dwelling, if she gives consent to the inspection, is null and void, because she is considered an agent for the owner of the dwelling. " Whereas, Article 44 of the Constitution stipulates that "Homes are inviolable and may not be entered or searched except by a reasoned judicial order in accordance with the provisions of the law", which is an absolute general provision that has not been answered by what it allocates or restricts, to the effect that this constitutional provision requires in all cases of house searches the issuance of the reasoned judicial order, in order to preserve the inviolability of the dwelling, which stems from personal freedom that relates to the individual's entity, private life, and dwelling that is the subject of his secret and tranquility. Therefore, the Constitution was keen to confirm the prohibition of violating the inviolability of the dwelling, whether by entering or searching it, unless a reasoned judicial order was issued without excepting the state of flagrante delictum, which, according to Article 41 of the Constitution, only permits the arrest and search of a person wherever it is found. This confirms that the draft of the Committee of Freedoms formed by the People's Assembly at the time of the preparation of the Constitution, the text of Article 44 guarantees the exception of the state of flagrante delictment in its provision, except that this exception was dropped in the final draft of this article and the current Constitution, including the text of Article 44. Whereas, the text of Article 44 of the Constitution clearly indicates that the case of flagrante delicto is not excluded in the two guarantees mentioned in any judicial order and that it is reasoned, it is not justified to say except for the case of flagrante delicto in the provision of these two guarantees by analogy to remove them from their judgment in the event of a search or arrest of a person, because the exception is not measured on it, and the measurement is prohibited to explicitly state the text of Article 44 above and its significance is clear. The phrase "in accordance with the provisions of the law", which appeared at the end of that article after mentioning the two guarantees referred to, does not change this phrase does not mean authorizing the ordinary street to release the case of flagrante delicto from their restriction and saying otherwise leads to the loss of two guarantees placed by the constitutional street and the suspension of its work on the will of the legal street, which is not benefited by the text of Article 44 of the Constitution. Rather, the phrase "in accordance with the provisions of the law" refers to referral to the ordinary law in determining the crimes in which the order to search of housing may be issued and explain how it is issued and the reason for other procedures by which this inspection is carried out. Whereas, Article 44 of the Constitution stipulates that the inviolability of the dwelling and the prohibition to enter or search it shall be established except by a reasoned judicial order in accordance with the provisions of the law, which shall be self-executing. Whereas, the entry of the first prosecution witness to the appellant's residence came at the request of the second prosecution witness to assist her in accordance with the provisions of Article 45 of the Criminal Procedure Law, but what the judgment stated in the foregoing does not provide the state of flagrante delicto that allows him to search the residence, because that situation requires watching the crime while it is in this situation or with little external manifestations that predict its occurrence, it requires that the judicial officer verify that the crime has been witnessed by himself or with a sense of his senses, and it is not indispensable to receive its news through narration or transfer from others, whether a witness or an accused person acknowledges himself as long as he has not witnessed it or

The necessity of the Public Prosecution's permission to inspect places is limited to the case of inspection of dwellings and their accessories because the law only wanted to protect the dwelling. The extraction of narcotic substances from seawater without permission is not dusty, and the judgment - afterwards - is not defective in its refusal to respond to the plea of narcotic seizure nullity, as it is a legal plea of apparent nullity[812].

Also, inspecting farms without permission is no dust if they are not connected to dwellings[813].

The entry of the officer as a private person with a secret guide into the residence of the accused upon his permission and the arrest of the officer remotely due to the presence of a case of flagrante delicto is also correct[814].

Pleading the invalidity of the house search because of the lack of permission from the Public Prosecution to do so, it is not permissible to invoke it without the owner of the house[815].

3- Inspector

The law prohibits the arrest or search of any person except with his permission or with the permission of the competent investigating authority. It is not permissible for individuals other than judicial officers to engage in any of these two procedures, and all that the law authorizes them to

witnessed a self-ful effect of its occurrence. Whereas, the search of the undercover policeman/ ..... The appellant's residence shall be null and void as well as all that resulted from it in application of the rule of all that follows from the nullity, and the result of that inspection and the testimony of its conduct shall be null and void because it is a consequence of it and it is not valid to rely on the evidence derived from it in the conviction and the judgment has relied in its judgment to convict the appellant from what was relied on in the evidence derived from that inspection, which may not be relied upon as evidence in the lawsuit, and the contested judgment shall be wrongly defective in the application of the law that nullifies it and requires its revocation, and the other evidence contained in the judgment shall not be precluded, as the evidence in the criminal materials is supportive and complements each other so that if one of them is dropped or excluded, it is not possible to identify the amount of the impact of the invalid evidence in the opinion that the court reached, and in addition to the foregoing, the judgment does not support the seizure of (cannabis plant) by the knowledge of the major/ ... Upon searching the house of the appellant with the permission of Mrs./ ..... Considering that she is the wife of the appellant, as evidenced by the contested judgment, as it is established that if the matter relates to the search of a house or place, consent must be issued by the owner of the house or place or who is considered to be in possession of it at the time of his absence, and it is established from the contested judgment that the appellant was not absent from the house, the permission of his wife shall be issued by those who do not own it. Whereas, the court, having also relied in its judiciary on the conviction of the appellant, relied on the results of the search of his house with the knowledge of Major..... Based on the validity of the inspection because he obtained the consent of his wife residing with him in the same house, she is mistaken in the application of the law. Whereas the foregoing, the contested judgment is defective in what invalidates it and requires its cassation and return for this reason as well] Appeal No. 19039 of the year 73 S issued at the session of February 17, 2010 and published in the book of the Technical Office No. 61 page No. 134 rule No. 19.

([812]) Appeal No. 54 of 60 S issued at the session of January 15, 1991 and published in the first part of the book of the Technical Office No. 42 page No. 67 rule No. 12.

([813]) Appeal No. 2819 of 59 S issued at the session of October 16, 1989 and published in the first part of the technical office book No. 40 page No. 769 rule No. 128, Appeal No. 1347 of 55 S issued at the session of June 2, 1985 and published in the first part of the technical office book No. 36 page No. 742 rule No. 130, Appeal No. 57 of 38 S issued at the session of April 8, 1968 and published in the second part of the technical office book No. 19 page No. 398 rule No. 75.

([814]) Appeal No. 768 of 48 S issued on October 26, 1978 and published in the first part of the book of the Technical Office No. 29 page No. 727 rule No. 146.

([815]) Appeal No. 1289 of 37 S issued at the session of October 30, 1967 and published in the third part of the book of the Technical Office No. 18 page No. 1047 rule No. 214.

bring the perpetrator in flagrante delicto crimes - in application of the provisions of articles 37 and 38 of the Code of Criminal Procedure - and hand him over to the nearest judicial officer and they are not entitled to make a arrest or search[816] .

The right of search is limited to the judicial officer and not to other individuals or members of the public authority. The judicial officer may not search the accused on his own except in cases of flagrante delicto or misdemeanors that are punishable by imprisonment for a period exceeding three months, provided that there is sufficient evidence to charge him with the flagrante delicto [817] .

The court must verify the capacity of the judicial officer authorized to inspect and the extent of his spatial competence when conducting the inspection [818] .

The Court of Cassation also ruled that the issuance of a search warrant to one of the arresting officers or to those who assist or delegate him results in the validity of the search conducted by whomever alone, as long as the source of the permission did not intend for one in particular to implement it, and it is not necessary to write the assignment order issued by the original delegate to other judicial arresting officers [819] .

Fourth: Cases in which an inspection is permissible

The judicial officer may search the accused in cases where the law allows him to arrest him, [820] .

Whenever it is permissible to arrest the accused, the judicial officer may search him[821].

([816]) Appeal No. 44270 of 85 S issued at the 22nd session of October 2016 and published in the letter of the Technical Office No. 67, page No. 735, rule No. 94.

([817]) The Court of Cassation ruled that: [The text of Article 46 of the Criminal Procedure Law is clear that "in cases where it is legally permissible to arrest the accused, the judicial officer may search him." This provision is reserved to the judicial officer only for the right of search, which confirms that this text came after the text of Articles 37 and 38 of the Code of Criminal Procedure related to the right of individuals and public officials who are not judicial officers to bring the accused in flagrante delicto and hand him over, and it came without deciding the right to search the accused for individuals or public officials who do so without judicial officers, and that Article 46 of the Code of Criminal Procedure is derived from Article 242 of the Italian Investigation Law, which does not allow individuals when handing over the flagrante delicto to search him, and that handing over the accused after being brought by a public authority officer who is not a judicial officer is not a legal arrest as mentioned above. Whereas the foregoing, and the popular committees have not yet been subjected to the appellant to arrest, search or search the car, if they do, their action is null and void, and as it invalidates the arrest and search, it invalidates the evidence derived from them, and since the papers have no evidence other than the false arrest, and therefore the appealed judgment must be overturned and the appellant acquitted of what was attributed to him] Appeal No. 380 of 82 S issued at the session of 22 September 2012 and published in the Technical Office's letter No. 63, page No. 396, rule No. 66.

See Article 337 of the Judicial Instructions of the Public Prosecution.

([818]) Appeal No. 380 of 82 S issued on September 22, 2012 and published in the Technical Office's letter No. 63, page No. 396, rule No. 66.

([819]) Appeal No. 345 of 86 S issued at the 8th session of October 2016 and published in the book of the Technical Office No. 67, page No. 673, rule No. 85.

([820]) Paragraph 1 of Article 46 of the Criminal Procedure Law..

([821]) Appeal No. 13620 of 88 s issued at the session of January 2, 2021 (unpublished), Appeal No. 4324 of 88 s issued at the session of November 14, 2019 (unpublished), Appeal No. 2460 of 77 s issued at the session of December 10, 2015 and published in the Technical Office letter No. 66 page No. 848 rule No. 125, Appeal No. 15915

Whenever the arrest is true, the search conducted by the person authorized to conduct it on the arrested person is true, whatever the reason for the arrest or its purpose. If he is not allowed to arrest, he is not allowed to be searched and the results of the false arrest and search are null and void)[822].

If flagrante delicto is a characteristic of the crime itself and not of the person who committed it, this allows the judicial officer who witnessed its occurrence to arrest the accused who has sufficient evidence that he committed it, and to be searched without permission from the Public Prosecution [823)].

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of 84 s issued at the session of January 12, 2015 and published in the Technical Office letter No. 66 page No. 144 rule No. 11, Appeal No. 18645 of 72 S issued at the session of November 8, 2009 and published in the Technical Office letter No. 60, page No. 420, rule No. 57, Appeal No. 16210 of 68 S issued at the session of January 3, 2008 and published in the Technical Office letter No. 59, page No. 33, rule No. 3, Appeal No. 9898 of 67 S issued at the session of November 16, 2005 and published in the Technical Office letter No. 56, page No. 568, rule No. 89, Appeal No. 995 of 62 S issued at the session of December 5, 2001 and published in the Office letter Technical No. 52 Page No. 952 Rule No. 183, Appeal No. 22557 of 61 S issued at the session of November 9, 1993 and published in the first part of the Technical Office's letter No. 44 Page No. 969 Rule No. 150, Appeal No. 19691 of 60 S issued at the session of March 19, 1992 and published in the first part of the Technical Office's letter No. 43 Page No. 310 Rule No. 42, Appeal No. 46438 of 59 S issued at the session of October 21, 1990 Published in the first part of Technical Office Letter No. 41 Page No. 922 Rule No. 161, Appeal No. 15033 of 59 S issued at the session of January 3, 1990 and published in the first part of Technical Office Letter No. 41 Page No. 41 Rule No. 4, Appeal No. 4064 of 56 S issued at the session of November 13, 1986 and published in the first part of Technical Office Letter No. 37 Page No. 878 Rule No. 169, Appeal No. 3385 of 56 S issued at the session of October 15, 1986 and published in the first part of Technical Office Letter No. 37 Page No. 769 Rule No. 147, Appeal No. 2992 of 54 S issued at the session of February 5, 1985 and published in the first part of the Technical Office's book No. 36 Page No. 209 Rule No. 33, Appeal No. 954 of 47 S issued at the session of January 23, 1978 and published in the first part of the Technical Office's book No. 29 Page No. 83 Rule No. 15, Appeal No. 865 of 45 S issued at the session of June 8, 1975 and published in the first part of the Technical Office's book No. 26 Page No. 500 Rule No. 117, Appeal No. 1819 of 37 S issued at the session of December 11, 1967 and published in the third part of the Technical Office's book No. 18 Page No. 1242 Rule No. 263.

([822]) Appeal No. 5979 of 88 S issued at the session of November 21, 2018 (unpublished), Appeal No. 11530 of 86 S issued at the session of October 27, 2018 (unpublished), Appeal No. 17646 of 88 S issued at the session of July 22, 2019 (unpublished), Appeal No. 2410 of 86 S issued at the session of March 24, 2018 (unpublished), Appeal No. 208 of 85 S issued at the session of April 6, 2017 (unpublished), Appeal No. 5883 of 86 S issued at the 22nd session of December 2016 and published in Technical Office Letter No. 67 Page 922 Rule No. 115, Appeal No. 37197 of 85 S issued at the 1st session of June 2016 (unpublished), Appeal No. 18565 of 84 S issued at the 11th session of April 2016 and published in Technical Office Letter No. 67 Page No. 433 Rule No. 50, Appeal No. 645 of 85 S issued at the 14th session of December 2015 and published in Technical Office Letter No. 66 Page No. 868 Rule No. 129, Appeal No. 14935 of 83 S Issued at the hearing of 7 April 2014 (unpublished), Appeal No. 9405 of 80 S issued at the hearing of 27 July 2011 (unpublished), Appeal No. 11 of 81 S issued at the hearing of 7 June 2011 (unpublished), Appeal No. 8522 of 80 S issued at the hearing of 7 May 2011 and published in the book of the Technical Office No. 62 page No. 211 rule No. 36, Appeal No. 4994 of 80 S issued at the hearing of 19 April 2011 (unpublished), Appeal No. 6595 of 79 S issued at the 20 March 2011 session (unpublished), Appeal No. 9069 of 79 S issued at the 2 October 2010 session (unpublished), Appeal No. 61169 of 74 S issued at the 5 October 2008 session (unpublished), Appeal No. 19083 of 76 S issued at the 5 March 2007 session (unpublished), Appeal No. 51962 of 75 S issued at the 3 June 2006 session (unpublished), Appeal No. 995 of 62 S issued at the 5 December 2001 session and published in the Technical Office letter No. 52 Page No. 952 Rule No. 183, Appeal No. 23765 of 67 s issued at the hearing of January 17, 2000 (unpublished), Appeal No. 46438 of 59 s issued at the hearing of October 21, 1990 and published in Part I of Technical Office Letter No. 41 Page 922 Rule No. 161, Appeal No. 11971 of 59 s issued at the hearing of April 19, 1990 and published in Part I of Technical Office Letter No. 41 Page 640 Rule No. 110, Appeal No. 15033 of 59 s issued at the hearing of January 3, 1990 and published in Part I of Technical Office Letter No. 41 Page 41 Rule No. 4, Appeal No. 3385 of 56 s issued at the hearing of October 15, 1986 and published in Part I of Technical Office Letter No. 37 Page 769 Rule No. 147..

([823]) Appeal No. 5979 of 88 S issued on 21 November 2018 (unpublished).

Fifth: Controls for conducting the inspection

1- Search warrant

The law did not require a specific form for the inspection permit and did not require stipulating the scope of its implementation in the spatial jurisdiction of its source. All that the law requires in this regard is that the permit be clear and specific with regard to the appointment of the persons and places to be inspected and that its source be spatially competent to issue it and that it be written in its handwriting and signed by its signature[824].

His validity shall not be affected by the absence of a statement of the status of the person authorized to search him, his industry, or his place of residence, as long as the person who was actually searched is the person intended by the search warrant[825].

Nor does his error in indicating the name, age, profession, or place of residence of the person authorized to be searched affect his validity as long as he is the person authorized to be searched[826].

The law does not require special phrases in which the search warrant is formulated, but it is sufficient that the judicial officer has learned from his investigations and inferences that a crime has occurred and that there are strong indications and signs against those who request permission to search him and search his home, and therefore he does not invalidate the permission for not specifying what the crime is in it [827].

It is sufficient in the crimes assigned to the accused that they already exist and the evidence of their attribution is available to him at the time of issuing a permit to seize and search, and the stipulation of the permission of the requirement to conduct the search and seizure in the event of a violation of the law does not make the permission dependent on a condition, nor to seize a future crime [828].

The plea of nullity of the Public Prosecution's permission to arrest and search is one of the legal defenses mixed with reality, which may not be raised for the first time before the Court of Cassation unless it has been pleaded before the trial court or its records have its elements. The plea of

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([824]) Appeal No. 12220 of 88 S issued at the session of January 2, 2021 (unpublished), Appeal No. 60643 of 59 S issued at the session of January 21, 1991 and published in the first part of the Technical Office's letter No. 42 page No. 140 rule No. 16.

([825]) Appeal No. 8426 of 87 S issued at the 4th session of November 2017 (unpublished), Appeal No. 22305 of 83 S issued at the 12th session of October 2014 and published in the Technical Office's letter No. 65, page No. 656, rule No. 85, Appeal No. 412 of 50 S issued at the 9th session of June 1980 and published in the first part of the Technical Office's letter No. 31, page No. 742, rule No. 143.

([826]) Appeal No. 8047 of 88 S issued at the 14th session of November 2019 (unpublished), Appeal No. 1877 of 59 S issued at the 19th session of October 1989 and published in the first part of the Technical Office's book No. 40 page No. 792 rule No. 132.

([827]) Appeal No. 41816 of 85 S issued on May 2, 2017 (unpublished).

([828]) Appeal No. 1285 of 50 S issued at the session of November 24, 1980 and published in the first part of the book of the Technical Office No. 31 page No. 1029 rule No. 199.

seizure and search before the issuance of the permission is a substantive defense sufficient to respond to the court's reassurance that the seizure and search occurred on the basis of the permission, taking into account the reasonable evidence provided by[829].

The law did not require the mention of spatial jurisdiction coupled with the name of the prosecutor issuing the search warrant[830].

The quality of the permission source is not one of the essential data for the validity of the inspection permission[831].

It also does not affect the validity of the wrong inspection permit in mentioning the place of work of the person authorized to inspect it, as long as he is the person intended with the permission[832].

It is sufficient for the validity of the search warrant to mention the source of the search warrant in his capacity attached to his name in it, and it is not necessary to mention his spatial competence, and the lesson in this is the reality of reality, and the law did not draw a special form for his signature on it, as long as he is actually signed by the one who issued it, and it follows that his signature with an illegible signature does not invalidate it[833].

([829]) Appeal No. 5556 of 86 S issued at the hearing of April 8, 2018 (unpublished), Appeal No. 46241 of 85 S issued at the hearing of December 24, 2017 (unpublished), Appeal No. 42162 of 85 S issued at the hearing of November 25, 2017 (unpublished), Appeal No. 41128 of 85 S issued at the hearing of March 28, 2017 (unpublished), Appeal No. 20950 of 86 S issued at the hearing of December 27, 2016 (unpublished), Appeal No. 20454 of 84 S issued at the hearing of December 3, 2016 (unpublished).

([830]) Appeal No. 8033 of 81 s issued at the session of July 17, 2012 and published in the Technical Office letter No. 63 page 364 rule No. 59, Appeal No. 2534 of 59 s issued at the session of February 6, 1990 and published in the first part of the Technical Office letter No. 41 page 275 rule No. 48, Appeal No. 3887 of 58 s issued at the session of November 13, 1988 and published in the first part of the Technical Office letter No. 39 page 1052 rule No. 159, Appeal No. 2766 of 56 s issued at the session of October 15, 1986 and published in the first part of the Technical Office letter No. 37 page 760 rule No. 146.

([831]) Appeal No. 3773 of 58 S issued at the session of November 23, 1988 and published in the first part of the book of the Technical Office No. 39 page No. 1103 rule No. 167.

([832]) Appeal No. 32605 for the year 72 S issued in the session of December 3, 2009 and published in the book of the Technical Office No. 60 page No. 518 rule No. 67.

([833]) Appeal No. 8668 of 71 S issued at the 10th session of December 2007 and published in the Technical Office letter No. 58, page No. 784, rule No. 147, Appeal No. 10015 of 63 S issued at the 19th session of January 1995 and published in the first part of the Technical Office letter No. 46, page No. 211, rule No. 30, Appeal No. 13180 of 63 S issued at the 14th session of May 1995 and published in the first part of the Technical Office letter No. 46, page No. 849, rule No. 128

The Court of Cassation ruled that: [The lesson in the search warrant data is what is contained in its original without the printed copy of the case. It is not valid to challenge the permission not to mention the name of the prosecution to which the source of the permission belongs, because there is nothing in the law that requires mentioning the spatial jurisdiction coupled with the name of the deputy prosecutor who is the source of the permission to search. Since the obituary in fact is based on the mere form of the signature in itself and because it resembles the mark of the closure of speech, it does not defect the permission as long as it is actually signed by the one who issued it] Appeal No. 1888 of 34 S issued at the session of May 11, 1965 and published in the second part of the book of the Technical Office No. 16 page No. 452 rule No. 91.

And that the signature on the last search warrant page - which is considered - dispenses with the signature of the rest of its pages, if they are multiple, as the law did not require this[834].

The validity of the inspection permit shall not be affected by its omission to prove the hour of its issuance as long as it is proven that the inspection took place after the issuance of the permit and before its expiry.[835].

The officer's resort to the prosecutor in his place - at his home - to obtain a search warrant is left to his absolute discretion and there is no violation of the law, and therefore there is nothing in it to call into question the integrity of his procedures[836].

The Court of Cassation also ruled that the failure to prove the mission in the case book does not affect the validity of the procedure, so it ruled that: [It is scheduled for the trial court to extract from the statements of witnesses and other elements on the table of research the correct picture of the incident of the lawsuit as it leads to its conviction and to put forward other contrary forms as long as its conclusion is based on acceptable evidence in reason and logic and has its origin in the papers, and the weight of the statements of witnesses and the assessment of the circumstances in which they perform the testimony was left to the discretion of the trial court, and when it took the testimony of a witness, this indicates that it presented all the considerations raised by the defense to make it not take it into account, and that the individuality of the officer with the testimony does not affect the integrity and sufficiency of his statements as evidence in the lawsuit and that the contradiction and inconsistency in his statements are not defective in the judgment as long as the court has extracted the truth from it is not contradictory - as in the case in the present lawsuit - what the appellant raises about the statements of the officer and the validity of his portrayal of the fact is not considered serious in the court's assessment of the evidence in the list of the lawsuit, which is not permissible sources before the Court of Cassation. Since this is the case, and it is decided that it is not valid to rely on the instructions in the place of applying the law, what the appellant raises regarding the failure to prove the mission in the status book shall have no place. Whereas, while the principle is that whoever carries out an invalid procedure against which testimony is not admissible, this is only when the invalidity is established and proven, and if the contested judgment has correctly concluded the validity of the arrest and search procedures, there is no doubt about him if he relies on the statements of the officer of the incident in conviction, and the appellant's immunity in this regard is not correct. Whereas, it was decided that the acceptance of the face of the appeal must be clear and specific, and the appellant did not indicate

(834) Appeal No. 85053 of 76 S issued at the session of 20 December 2010 and published in the letter of the Technical Office No. 61 page No. 709 rule No. 93, Appeal No. 274 of 60 S issued at the session of 1 April 1991 and published in the first part of the letter of the Technical Office No. 42 page No. 569 rule No. 82.

(835) Appeal No. 19724 of 61 s issued at the session of 20 September 1994 and published in the first part of the technical office book No. 45 page No. 776 rule No. 121, Appeal No. 4461 of 57 s issued at the session of 20 March 1988 and published in the first part of the technical office book No. 39 page No. 458 rule No. 65.

(836) Appeal No. 51172 for the year 72 S issued at the session of December 20, 2009 and published in the book of the Technical Office No. 60 page No. 572 rule No. 74.

the nature of the defense that he expressed and the contested judgment turned away from responding to it, but the statement sent a message that cannot be monitored whether the judgment dealt with the response or not, and whether it was a substantive defense that the court must answer or respond to, or it is a substantive defense that does not originally require a response, but the response to it is benefited from the judiciary by condemning the evidence mentioned by the court in its judgment, and then the obituary to the judgment in this regard is misplaced][837].

2- Reason for inspection - seriousness of investigations

The Constitution or the law did not stipulate a certain amount of reasoning or a specific form on which the search warrant must be issued. The law also did not prescribe a special form of reasoning, and does not require that the search warrant be formulated in special phrases [838].

It is sufficient to consider the search warrant as a reason to prove the search warrant on the same record containing the results of the investigations [839].

It is assumed that the search will not proceed unless a felony or misdemeanor has occurred, and there is sufficient evidence to attribute it to a specific person sufficient to accuse him of committing it. Therefore, the evidentiary procedures on which the search is based are required to be legitimate, and if it is not, the search is void [840].

In the crime under investigation, it is required to be a felony or a misdemeanor, as the law does not allow inspection regarding violations, and the lesson in describing the charge is what is being investigated without resulting in its end. If it becomes clear after the investigation that the incident is a violation, this does not result in the invalidity of the inspection that was carried out correctly [841].

([837]) Appeal No. 19911 of 89 S issued on February 7, 2021 (unpublished).

([838]) Appeal No. 11803 of 82 S issued at the 2nd session of April 2013 and published in the Technical Office letter No. 64, page No. 447, rule No. 59, Appeal No. 336 of 45 S issued at the 27th session of April 1975 and published in the first part of the Technical Office letter No. 26, page No. 355, rule No. 82, Appeal No. 200 of 45 S issued at the 24th session of March 1975 and published in the first part of the Technical Office letter No. 26, page No. 258, rule No. 60.

([839]) Appeal No. 811 of 45 s issued at the 26th session of May 1975 and published in the first part of the Technical Office letter No. 26 page No. 458 rule No. 107, Appeal No. 336 of 45 s issued at the 27th session of April 1975 and published in the first part of the Technical Office letter No. 26 page No. 355 rule No. 82.

([840]) The Court of Cassation ruled that: [All that is required for the validity of the search carried out by the Public Prosecution or authorized to be carried out in the residence of the accused is that the judicial officer has learned from his investigations and inferences that a specific crime or misdemeanor has been committed by a specific person and that there are sufficient evidence, signs and acceptable suspicions against this person to the extent that the investigation is justified by the inviolability of his residence guaranteed by the Constitution and the men of authority are prohibited from entering it except in the cases stipulated by law] Appeal No. 5769 of 60 BC issued at the session of March 11, 1999 and published in the first part of the Technical Office's letter No. 50 page No. 159 Rule No. 37.

([841]) Appeal No. 24137 of 64 S issued at the session of 3 December 1996 and published in the first part of the technical office book No. 47 page No. 1263 rule No. 184, Appeal No. 823 of 59 S issued at the session of 12 November 1989 and published in the first part of the technical office book No. 40 page No. 922 rule No. 153, Appeal No. 4444 of 56 S issued at the session of 11 December 1986 and published in the first part of the technical office book No. 37 page No. 1059 rule No. 200.

The validity of issuing a search warrant must be preceded by serious investigations, with the likelihood of the crime being attributed to the person authorized to search it [842].

The assessment of the seriousness of the investigations and their adequacy to issue the search warrant is one of the substantive issues in which the matter is entrusted to the investigating authority under the supervision of the trial court, and the trial court exercises its control over the seriousness of the reasonable suspicions that these inferences indicate that are sufficient to weight the occurrence of the crime and attribute it to the accused[843].

([842]) The Court of Cassation ruled that: [It is scheduled to assess the seriousness of the investigations and their sufficiency to issue the search warrant, although it is entrusted to the investigating authority that issued it under the supervision of the trial court. However, if the accused has pleaded the nullity of this procedure, the court must present this substantive plea and respond to it with justifiable reasons for acceptance or rejection. Whereas, the contested judgment refused to pay the nullity of the search warrant because of the lack of seriousness of the investigations to say that the first appellant seized the car of the sixth defendant if it received the amount of the bribe and the eighth defendant's acknowledgment of handing over the amount of the bribe to the sixth appellant to deliver it to the fourth and fifth appellants is evidence of the seriousness of the police investigations, which is not valid in response to this payment, because the first appellant seized the amount of the bribe and the eighth defendant acknowledged handing over the amount of the bribe to the sixth appellant Rather, they are two new elements in the lawsuit that are subsequent to the police investigations and to the issuance of the search warrant. They should not be taken as evidence of the seriousness of the investigations preceding them, because the condition for the validity of the issuance of the warrant is that it should be preceded by serious investigations, with which the ratio of the crime to the search warrant is likely, which required the court, in order for its response to the defense to be correct, to express its opinion on the elements of the investigations preceding the warrant without other elements subsequent to it and to say its word on its sufficiency or insufficiency to justify the issuance of the warrant by the investigating authority. However, if it did not do so, its judgment is flawed by the deficiency and corruption in the reasoning] Appeal No. 2032 of the year 81 S issued in the session of February 6, 2012 and published in the letter of the Technical Office No. 63, page No. 170, rule No. 22

It ruled that: [If the result of what the judgment proved was that the Public Prosecution's order to search the appellant's residence was based on its assessment of the statements of the first defendant and the information he gave in the investigation and was not based on the investigations submitted to it by the judicial officer, and therefore the plea of nullity of the search order on the pretext of building it on non-serious investigations is contained in an irreplaceable and unproductive lawsuit, and the contested judgment is not defective that it was dismissed from it.], Appeal No. 2571 of 60 S issued at the session of February 8, 1999 and published in the first part of the Technical Office's letter No. 115, rule No. 23, Appeal No. 1764 of 48 S issued at the session of February 18, 1979 and published in the first part of the Technical Office's book No. 30, page No. 279, rule No. 56.

([843]) Appeal No. 10349 of 88 Q issued in the session of February 6, 2021 (unpublished), Appeal No. 12222 of 88 Q issued in the session of January 2, 2021 (unpublished), Appeal No. 12220 of 88 Q issued in the session of January 2, 2021 (unpublished), Appeal No. 9735 of 86 Q issued in the session of October 12, 2016 and published in Technical Office Book No. 67, Page No. 686, Rule No. 88, Appeal No. 17575 of 83 Q issued in the session of April 5, 2014 (unpublished), Appeal No. 7979 of 82 Q issued in the session of October 13, 2013 and published in Technical Office Book No. 64, Page No. 835, Rule No. 124, Appeal No. 11753 For the year 82 Q issued in the session of May 14, 2013 and published in the Technical Office Book No. 64, page No. 622, rule No. 87, appeal No. 81514 for the year 76 Q issued in the session of January 20, 2013 and published in the Technical Office Book No. 64, page No. 143, rule No. 15, appeal No. 5172 for the year 82 Q issued in the session of January 6, 2013 and published in the Technical Office Book No. 64, page No. 45, rule No. 5, appeal No. 4364 for the year 82 Q issued in the session of December 23, 2012 and published in the Technical Office Book No. 63, page No. 864, rule No. 157, appeal No. 64838 for the year 75 Q issued in the session of November 25, 2012 and published in the Technical Office Book No. 63, page No. 784, rule No. 141, Appeal No. 3225 of 81 Q issued in the session of November 20, 2012 and published in the Technical Office's letter No. 63, page No. 742, rule No. 132, Appeal No. 22180 of 75 Q issued in the session of November 8, 2012 and published in the Technical Office's letter No. 63, page No. 635, rule No. 114, Appeal No. 67204 of 74 Q issued in the session of November 5, 2012 and published in the Technical Office's letter No. 63, page No. 607, rule No. 109, Appeal No. 2798 of 81 Q issued in the session of October 8, 2012 and published in the Technical Office's letter No. 63, page No. 457, rule No. 77, Appeal No. 26849 of 75 Q issued in the session of July 17, 2012 and published in the Office's letter Technical No. 63, Page No. 356, Rule No. 58, Appeal No. 8033 for the year 81 Q issued in the session of July 17, 2012 and published in Technical Office Book No. 63, Page No. 364, Rule No. 59, Appeal No. 1653 for the year 78 Q issued in the session of July 5, 2012 and published in Technical Office

Book No. 63, Page No. 351, Rule No. 57, Appeal No. 232 for the year 81 Q issued in the session of February 7, 2012 and published in Technical Office Book No. 63, Page No. 186, Rule No. 24, Appeal No. 3746 for the year 80 Q issued in the session of January 2, 2012 and published in Technical Office Book No. 63, Page No. 41, Rule No. 4, Appeal No. 760 for the year 81 Q issued in the session of November 3, 2011 and published in Technical Office Book Technical Office No. 62, Page No. 356, Rule No. 60, Appeal No. 5264 for the year 80 Q issued in the session of September 18, 2011 and published in Technical Office Book No. 62, Page No. 232, Rule No. 41, Appeal No. 76 for the year 80 Q issued in the session of July 28, 2011 (unpublished), Appeal No. 3955 for the year 80 Q issued in the session of March 6, 2011 and published in Technical Office Book No. 62, Page No. 142, Rule No. 22, Appeal No. 85053 for the year 76 Q issued in the session of December 20, 2010 and published in Technical Office Book No. 61, Page No. 709, Rule No. 93, Appeal No. 11083 for the year 79 Q issued in the session of December 2, 2010 (unpublished), Appeal No. 33146 for the year 73 Issued in the session of March 4, 2010 and published in the Technical Office Book No. 61, page No. 197, rule No. 26, Appeal No. 55384 for year 73 Q issued in the session of February 15, 2010 and published in the Technical Office Book No. 61, page No. 129, rule No. 18, Appeal No. 51172 for year 72 Q issued in the session of December 20, 2009 and published in the Technical Office Book No. 60, page No. 572, rule No. 74, Appeal No. 32605 for year 72 Q issued in the session of December 3, 2009 and published in the Technical Office Book No. 60, page No. 518, rule No. 67, Appeal No. 23336 for year 77 Q issued in the session of April 9, 2009 and published in the Technical Office Book No. 60, page No. 211, rule No. 27, Appeal No. 38814 of 74 Q issued in the session of March 18, 2009 and published in the Technical Office Book No. 60, page No. 158, rule No. 21, Appeal No. 17367 of 77 Q issued in the session of March 17, 2009 and published in the Technical Office Book No. 60, page No. 147, rule No. 20, Appeal No. 20475 of 71 Q issued in the session of November 3, 2008 and published in the Technical Office Book No. 59, page No. 457, rule No. 85, Appeal No. 48513 of 73 Q issued in the session of September 7, 2008 (unpublished), Appeal No. 34430 of 71 Q issued in the session of March 23, 2008 and published in the Technical Office Book No. 59, page No. 226, rule No. 37, Appeal No. 70653 For the year 76 Q issued in the session of March 23, 2008 and published in the Technical Office Book No. 59, page No. 234, rule No. 38, appeal No. 10892 for the year 72 Q issued in the session of November 18, 2007 and published in the Technical Office Book No. 58, page No. 755, rule No. 141, appeal No. 593 for the year 70 Q issued in the session of October 21, 2007 and published in the Technical Office Book No. 58, page No. 655, rule No. 126, appeal No. 3099 for the year 70 Q issued in the session of October 16, 2007 and published in the Technical Office Book No. 58, page No. 620, rule No. 118, Appeal No. 28209 for the Judicial Year 64, issued in the session of January 12, 1997, and published in the first volume of Technical Office Book No. 48, Page No. 79, Rule No. 12; Appeal No. 26297 for the Judicial Year 64, issued in the session of December 22, 1996, and published in the first volume of Technical Office Book No. 47, Page No. 1392, Rule No. 200; Appeal No. 24137 for the Judicial Year 64, issued in the session of December 3, 1996, and published in the first volume of Technical Office Book No. 47, Page No. 1263, Rule No. 184; Appeal No. 10105 for the Judicial Year 64, issued in the session of April 21, 1996, and published in the first volume of Technical Office Book No. 47, Page No. 544, Rule No. 76; Appeal No. 3039 for the Judicial Year 63, issued in the session of February 9, 1995, and published in the first volume of Technical Office Book No. 46, Page No. 336, Rule No. 49; Appeal No. 10015 for the Judicial Year 63, issued in the session of January 19, 1995, and published in the first volume of Technical Office Book No. 46, Page No. 211, Rule No. 30; Appeal No. 9434 for the Judicial Year 63, issued in the session of December 8, 1994, and published in the first volume of Technical Office Book No. 45, Page No. 1108, Rule No. 175; Appeal No. 3784 for the Judicial Year 62, issued in the session of February 6, 1994, and published in the first volume of Technical Office Book No. 45, Page No. 209, Rule No. 32; Appeal No. 3006 for the Judicial Year 62, issued in the session of January 23, 1994, and published in the first volume of Technical Office Book No. 45, Page No. 137, Rule No. 21; Appeal No. 19739 for the Judicial Year 61, issued in the session of October 3, 1993, and published in the first volume of Technical Office Book No. 44, Page No. 740, Rule No. 115; Appeal No. 21756 for the Judicial Year 60, issued in the session of June 2, 1992, and published in the first volume of Technical Office Book No. 43, Page No. 584, Rule No. 86; Appeal No. 9242 for the Judicial Year 60, issued in the session of November 10, 1991, and published in the second volume of Technical Office Book No. 42, Page No. 1204, Rule No. 165; Appeal No. 9076 for the Judicial Year 60, issued in the session of November 7, 1991, and published in the second volume of Technical Office Book No. 42, Page No. 1177, Rule No. 162; Appeal No. 61340 for the Judicial Year 59, issued in the session of February 4, 1991, and published in the first volume of Technical Office Book No. 42, Page No. 223, Rule No. 31; Appeal No. 28967 for the Judicial Year 59, issued in the session of October 3, 1990, and published in the first volume of Technical Office Book No. 41, Page No. 863, Rule No. 150; Appeal No. 4399 for the Judicial Year 59, issued in the session of November 16, 1989, and published in the first volume of Technical Office Book No. 40, Page No. 988, Rule No. 160; Appeal No. 823 for the Judicial Year 59, issued in the session of November 12, 1989, and published in the first volume of Technical Office Book No. 40, Page No. 922, Rule No. 153; Appeal No. 1877 for the Judicial Year 59, issued in the session of October 19, 1989, and published in the first volume of Technical Office Book No. 40, Page No. 792, Rule No. 132; Appeal No. 5791 for the Judicial Year 58, issued in the session of January 11, 1989, and published in the first volume of Technical Office Book No. 40, Page No. 56, Rule No. 6; Appeal No. 3557 for the Judicial Year 57, issued in the session of November 11, 1987, and published in the second volume of Technical Office Book No. 38, Page No. 943, Rule No. 173; Appeal No. 225 for the Judicial Year 57, issued in the session of April 21, 1987, and published in the first volume of Technical Office Book No. 38,

Page No. 626, Rule No. 106; Appeal No. 5900 for the Judicial Year 56, issued in the session of February 11, 1987, and published in the first volume of Technical Office Book No. 38, Page No. 246, Rule No. 37; Appeal No. 671 for the Judicial Year 56, issued in the session of June 4, 1986, and published in the first volume of Technical Office Book No. 37, Page No. 630, Rule No. 120; Appeal No. 1339 for the Judicial Year 55, issued in the session of May 27, 1985, and published in the first volume of Technical Office Book No. 36, Page No. 716, Rule No. 126; Appeal No. 7217 for the Judicial Year 54, issued in the session of March 17, 1985, and published in the first volume of Technical Office Book No. 36, Page No. 409, Rule No. 70; Appeal No. 1011 for the Judicial Year 54, issued in the session of November 26, 1984, and published in the first volume of Technical Office Book No. 35, Page No. 829, Rule No. 187; Appeal No. 1433 for the Judicial Year 51, issued in the session of October 20, 1981, and published in the first volume of Technical Office Book No. 32, Page No. 728, Rule No. 128; Appeal No. 438 for the Judicial Year 48, issued in the session of October 29, 1978, and published in the first volume of Technical Office Book No. 29, Page No. 738, Rule No. 148; Appeal No. 685 for the Judicial Year 47, issued in the session of November 27, 1977, and published in the first volume of Technical Office Book No. 28, Page No. 987, Rule No. 202; Appeal No. 656 for the Judicial Year 47, issued in the session of November 7, 1977, and published in the first volume of Technical Office Book No. 28, Page No. 930, Rule No. 193; Appeal No. 49 for the Judicial Year 46, issued in the session of October 3, 1976, and published in the first volume of Technical Office Book No. 27, Page No. 681, Rule No. 153; Appeal No. 1106 for the Judicial Year 45, issued in the session of November 16, 1975, and published in the first volume of Technical Office Book No. 26, Page No. 688, Rule No. 151; Appeal No. 811 for the Judicial Year 45, issued in the session of May 26, 1975, and published in the first volume of Technical Office Book No. 26, Page No. 458, Rule No. 107; Appeal No. 200 for the Judicial Year 45, issued in the session of March 24, 1975, and published in the first volume of Technical Office Book No. 26, Page No. 258, Rule No. 60.

The Court of Cassation ruled that: [The assessment of the seriousness of the investigations and their sufficiency to justify the search order is one of the issues on which the judge is independent without comment. Whereas the foregoing is so, and the contested judgment has invalidated the search warrant based on the lack of seriousness of the investigations, when it was found that the name contained therein is the name of the father of the appellee, who was a drug dealer and died to the mercy of God, and that what happened can not be considered just a material error in determining the name because the beneficiary of what the officer recorded in the record of the seizure that it became clear after the seizure that the accused is called ... ... The investigations on the basis of which the warrant was issued were not serious enough to allow the issuance of the warrant. The accused is known to the officer by his real name and was previously arrested in a similar case. What the judgment concluded was not merely the error in the name of the person concerned with the search, but rather the lack of investigation, which invalidates the order and wastes the evidence that revealed its implementation, which is a reasonable conclusion that the trial court has, and therefore the appellant's prohibition in this regard is misplaced. [Appeal No. 118 of 45 S issued on March 23, 1975 and published in the first part of the Technical Office's letter No. 26, page No. 252, rule No. 58

The Court of Cassation also ruled that: [Whereas the contested judgment has acquitted the appellee and the validity of the defense of the nullity of the inspection, saying in the reasoning of its ruling that "the contents of the minutes of the request for permission to search did not contain evidence and signs that convince the court of the seriousness of the inferences on which the search warrant was based or its sufficiency to justify its issuance, and what was decided by the issuer of the permission to investigate that the investigations carried out by himself confirmed that the accused is trading in Maxtone Forte substance and that the addicts are frequenting it to use it at the time that he did not mention anything about it in his minutes, sufficing to release the substance that he claimed that the accused is trading in, namely narcotic substances without a license or identification and the difference between trading in narcotic substances and giving the injection of dexa vitamin is clear and, even if the officer's allegations about his investigations are true to prove it in his record, which calls into question the validity of these investigations and deprives them of seriousness. It is not inconceivable that the investigating authority, which has the right to issue the search warrant, has decided the seriousness of these investigations, as this is subject to the control of the trial court as it is the supervisor of the grounds that the investigating authority deems justified to issue the search warrant, and therefore the search warrant issued to build on these investigations is null and void and the resulting procedures. As this meant that the court invalidated the search warrant based on the lack of seriousness of the investigations because it found that the officer who issued it had found out in his investigation of the accused would have known the truth of his activity and that he was giving the drug addicts who frequented him the injection of "Dixa Vet Insurance". He was ignorant and devoid of his record of reference to him because of his lack of investigation, which invalidates the order that he issued and wastes the evidence that revealed its implementation. The matter was not invalidated simply because the type of drug was not specified in the investigation record, which is a reasonable conclusion owned by the trial court, because it is decided that the assessment of the seriousness of the investigations and their adequacy to justify the search order is from the subject that his judge is independent. [Appeal No. 640 of 47 s issued at the session of November 6, 1977 and published in the first part of the book of the Technical Office No. 28 page No. 914 rule No. 190.

There is nothing to prevent the trial court, with its discretionary power, from seeing that the investigator has diligently collected one of the defendants, and did not find this for another defendant, and to conclude accordingly the validity of the permission - issued on the basis of those investigations - to search one of the defendants, and its invalidity for the other defendant without this being considered a contradiction in causation or corruption in inference [844].

The plea of the lack of seriousness of the investigations is an objective plea, which must be expressed in an explicit statement that includes the statement of its purpose, and it may not be raised for the first time before the Court of Cassation [845].

If he pleads before the trial court the nullity of the search due to the lack of seriousness of the investigations, it is obligated to respond to that plea in a reasonable manner[846].

([844]) Appeal No. 42442 of 85 S issued at the 25th session of November 2017 (unpublished).

([845]) Appeal No. 6615 of 84 s issued at the session of June 3, 2015 and published in Technical Office Book No. 66, page No. 500, rule No. 69, Appeal No. 7527 of 79 s issued at the session of March 7, 2015 and published in Technical Office Book No. 66, page No. 274, rule No. 37, Appeal No. 11753 of 82 s issued at the session of May 14, 2013 and published in Technical Office Book No. 64, page No. 622, rule No. 87, Appeal No. 58902 of 75 s issued at the session of April 13, 2013 and published in Technical Office Book No. 64, page No. 491, rule No. 65, Appeal No. 11803 of 82 s issued at the session of April 2, 2013 and published in Technical Office Book No. 64, page No. 447, rule No. 59, Appeal No. 29277 of 72 s issued at the session of December 14, 2009 (unpublished)

The Court of Cassation ruled that: [The objection to the investigations is not serious because it is an office is a statement sent on its release that does not lead to an explicit defense of the nullity of the search warrant, which must be expressed in an explicit statement that includes the statement of its intended purpose], Appeal No. 6604 of 84 S issued at the session of March 17, 2016 and published in the letter of the Technical Office No. 67, page No. 380, rule No. 43

The Court of Cassation also ruled that: [Whereas it is clear from the records of the trial sessions that the appellant did not pay the nullity of the search warrant, and the nullity of the search warrant was one of the legal arguments mixed with reality that may not be raised for the first time before the Court of Cassation, unless the records of the judgment bear its elements because it requires an investigation that is excluded from the function of the Court of Cassation, and it is inconceivable that the defendant of the appellant has shown in his pleading that "the lawsuit was not investigated" as this sent statement does not indicate the nullity of the permission because of the seriousness of the investigations that must be made in an explicit statement that includes the intended statement] Appeal No. 1412 of 70Q issued at the hearing of October 11, 2007 and published in the Technical Office's letter No. 614, rule No. 117, Appeal No. 17413 of 64Q issued at the hearing of September 26, 1996 and published in the first part of the Technical Office's book No. 47, page No. 892, rule No. 128

It ruled that: [Whereas the appellant argued that the investigation report on which the search warrant was based did not refer to the fact that one of the secret guides purchased a drug from her requires an objective investigation, and the appellant did not adhere to this before the trial court, and therefore it is not acceptable for her to raise this for the first time before the Court of Cassation], Appeal No. 10015 of 63 BC issued at the session of January 19, 1995 and published in the first part of the Technical Office's letter No. 46, page No. 211, rule No. 30.

([846]) See: Appeal No. 28252 of 72 S issued at the session of 19 November 2009, Appeal No. 837 of 79 S issued at the session of 29 September 2009, Appeal No. 17615 of 75 S issued at the session of 3 March 2009, Appeal No. 17615 of 75 S issued at the session of 3 March 2009, Appeal No. 28305 of 73 S issued at the session of 20 April 2008, Appeal No. 16413 of 73 S issued at the session of 3 March 2005 (unpublished) The Arab Republic of Egypt Unpublished judgments of the Court of Cassation Criminal Misdemeanors of Cassation Criminal Chambers, Appeal No. 19626 of 65 S issued at the session of January 5, 2005, Appeal No. 20416 of 85 S issued at the session of October 19, 2016 and published in the letter of the Technical Office No. 67 page No. 727 Rule No. 92, Appeal No. 3029 of 85 S issued at the session of January 5, 2016 and published in the letter of the Technical Office No. 67 page No. 39 Rule No. 4, Appeal No. 3123 of 85 S issued at the session of October 3, 2015 and published By Technical Office Letter No. 66 Page 636 Rule No. 93, Appeal No. 1996 of 79 s issued at the session of November 21, 2010 and published in Technical Office Letter No. 61 Page 630 Rule No. 80, Appeal No. 24137 of 64 s issued at the session of December 3, 1996 and published in Part I of Technical Office Letter No. 47 Page 1263 Rule No. 184, Appeal No. 4444 of 56 s issued at the session of December 11, 1986 and published in Part I of Technical Office

Letter No. 37 Page 1059 Rule No. 200, Appeal No. 7077 of 55 s issued at the session of March 13, 1986 and published in Part I of Technical Office Letter No. 408 Rule No. 84, Appeal No. 7079 of 55 s issued at the session of March 13, 1986 and published in Part I of Technical Office Letter No. 37 Page 412 Rule No. 85.

The Court of Cassation ruled that: [Whereas the principle in the law is that the search warrant is an investigation procedure that can only be issued to seize a crime of "felony or misdemeanor" that has already occurred and is likely to be attributed to a specific accused, and that there is sufficient evidence to address the inviolability of his home or personal freedom, and it was decided to assess the seriousness of the investigations and their adequacy to justify the issuance of the search warrant, even if it was entrusted to the investigating authority that issued it under the supervision of the trial court, but if the accused has argued the invalidity of this procedure, the court must present this fundamental defense and say its word in it with sufficient and justifiable reasons. Whereas the judgment was satisfied in responding to the plea of nullity of the search warrant by saying: "The lawsuit papers are devoid of any evidence that the secret guide officer was accompanied during the search," which is a deficient phrase with which it is not possible to determine the justifications for the ruling in this regard. The court did not express its opinion on the elements of the investigations prior to the search warrant, or its word is less sufficient to justify the issuance of the warrant by the investigating authority. In view of the foregoing, the judgment is flawed by the shortcomings and corruption in the reasoning] Appeal No. 1733 of 48 S issued at the session of February 12, 1979 and published in the first part of the Technical Office's letter No. 30 page No. 265 rule No. 52

The Court of Cassation also ruled that: [Although the assessment of the seriousness of the investigations and their sufficiency to justify the issuance of the search warrant is entrusted to the investigating authority, which issued it under the supervision of the trial court, but if the accused has argued that this procedure is invalid, the court must present this substantive defense and say its word in it with justifiable reasons. Whereas it is clear from the minutes of the trial hearings that the defendant of the appellant pleaded the nullity of the inspection permit for the lack of seriousness of the investigations on which it was based, evidenced by the fact that it was devoid of a statement of his place of residence and the work he practiced, even though he is a timber trader and carries out his activity in a licensed place and has a tax card. The judgment stated this plea within the substantive defense of the appellant and replied to all of him in saying, "As the court was satisfied with the statements of the witnesses of the incident and took them supported by the result of the technical report, it submits the plea and defense it considers as an attempt to ward off the accusation from itself for fear of punishment." This phrase is completely deficient, as the court did not express its opinion on the elements of the investigations prior to the search warrant or its word is less sufficient to justify the issuance of the permission of the investigation authority, although it established its conviction on the evidence resulting from the implementation of this permission, the judgment is defective and corrupt inference, which necessitates its reversal and referral.] Appeal No. 1660 for the year 47 issued in the session of April 3, 1978 and published in the first part of the Technical Office's letter No. 29, page No. 350, rule No. 66

The Court of Cassation also ruled that: [... The contested judgment has refused to plead the nullity of the search warrant because of the lack of seriousness of the investigations to say that the seizure of the body of the crime - the forged documents - in the possession of the appellant is evidence of the seriousness of the police investigations, which is not valid in response to this plea. This is because the seizure of forged documents is a new element in the lawsuit subsequent to the police investigations and the issuance of the search warrant. Rather, it is what is meant by conducting the search, so it is not appropriate to take it as evidence of the seriousness of the previous investigations. Because the condition for the validity of the issuance of the permission is that it is preceded by serious investigations, with which the ratio of the crime to the person authorized to inspect it is likely, which required the court - in order for its response to the payment to be correct, to express its opinion on the elements of the investigations prior to the permission - without other elements subsequent to it - and to say its word in sufficient or insufficient to justify the issuance of the permission from the investigating authority. As for it did not do so, its ruling is flawed by the shortcomings and corruption in the reasoning] Appeal No. 10572 of 65 BC issued at the session of July 13, 1997 and published in the first part of the Technical Office's letter No. 48 page No. 776 rule No. 119

The Court of Cassation ruled that there is no capacity for anyone other than the person against whom the invalid procedure was imposed to plead its invalidity, even if he benefits from it: [Since the investigations and the search permit for the non-appellant, he has no capacity to plead the lack of seriousness of the investigations on which this permission was based, because it is decided that there is no capacity for anyone other than the person against whom the procedure was signed to plead its invalidity, even if he benefits from it because the interest in the payment is achieved subsequent to the existence of the capacity in it] [Appeal No. 19739 - of the year 61 - date of the session 3/10/1993 - Technical Office 44 Part No. 1 - Page No. 740 - Rule No. 115] - [Reject]

It also ruled that: [The judgment has relied in refusing to plead the invalidity of the Public Prosecution's permission to inspect and register on the mere statement that the seizure is evidence of the seriousness of the investigations, it is limited because what it stated in this regard is only a new element in the lawsuit subsequent to the investigations and the issuance of the permission, but it is the very intention of the inspection or registration procedure that the judgment should not be taken as evidence of the seriousness of the investigations preceding it, because the

The Court of Cassation shall be limited to ensuring the validity of the reasoning of the judgment of the trial court, and its authority shall be to overturn the judgment if it does not respond to the plea of nullity of the search due to the lack of seriousness of the investigations, or if the response of the trial court to the plea of nullity of the search is absurd and unreasonable [847].

condition for the validity of the issuance of the permission to be preceded by serious investigations is likely to be the ratio of the crime to the authorized to inspect it or record its conversations, which required the court to express its opinion on the elements of the investigations preceding the permission and not the other elements subsequent to it and to say its word in its sufficiency to justify the issuance of the permission from the investigating authority, but it did not do so, its judgment is above its deficiency in causation of corruption in the inference] Appeal No. 3557 of 57 issued in the hearing of November 11, 1987 and published in Part II of the Technical Office Book No. 38 page 943 Rule No. 173.

([847]) See: Appeal No. 918 of 78 s issued at the session of December 21, 2010 and published in the letter of the Technical Office No. 61 page No. 724 rule No. 96, Appeal No. 916 of 78 s issued at the session of May 7, 2009, Appeal No. 8668 of 71 s issued at the session of December 10, 2007 and published in the letter of the Technical Office No. 58 page No. 784 rule No. 147, Appeal No. 4769 of 70 s issued at the session of October 16, 2005 (unpublished)

The Court of Cassation ruled that: [It is decided in the Court of Cassation that the assessment of the seriousness of the investigations and their sufficiency to justify the issuance of the search warrant, even if it was entrusted to the investigating authority that issued it under the supervision of the trial court, but if the accused has argued the nullity of this procedure, the court must present this substantive plea and say its word in it with justifiable reasons, and if that, and the contested judgment did not offer at all to push the appellant the nullity of the search warrant because of the seriousness of the investigations on which it was based, despite the fact that it based its conviction on the evidence derived from the implementation of this permit, it is defective and requires its cassation and return without the need to discuss the rest of the aspects of the appeal.]. Appeal No. 924 of 82Q issued at the hearing of October 1, 2012 and published in the Technical Office's letter No. 63 page No. 412, rule No. 70

It also ruled: [The law requires that for a search warrant to be valid, there must be a specific crime, whether a felony or a misdemeanor, and that its commission must be attributed to a specific person based on a serious report or on other elements sufficient to justify the search for the inviolability of the residence of the accused or his personal freedom. The assessment of all this is entrusted to the Public Prosecution under the supervision and supervision of the courts. If the court finds that the permission in the search was issued in circumstances in which it may be issued, it may take the evidence derived from it, otherwise, it may subtract it. The assessment of the adequacy of the facts to justify the inspection is an objective matter that may not be raised for the first time before the Court of Cassation unless the facts mentioned in the same judgment indicate the lack of justification for the inspection. If the accused disputes the adequacy of the facts to justify the search, he must submit this to the trial court. If he has been silent, and the court for its part has seen, by approving the prosecution's action, that these evidence justify the search warrant, he may not dispute this with the Court of Cassation. [Appeal No. 1562 of 11 S issued at the hearing of June 9, 1941 and published in the first part of the set of rules No. 5, page No. 540, rule No. 274

It also ruled that: [It is not acceptable for the accused to raise for the first time before the Court of Cassation the nullity of the search that took place on his house by saying that the permission issued by the Public Prosecution for the search has exhausted its effectiveness by searching him once, and thus the search that took place after that took place without permission. This is because this defense requires an objective investigation, and because the contested judgment is not valid. [Appeal No. 1160 of 19 S issued at the hearing of November 15, 1949 and published in the first part of the Technical Office's letter No. 1, page No. 66, rule No. 24

It ruled that: [It is decided to assess the seriousness of the investigations and their sufficiency to justify the issuance of the search warrant, even if it is entrusted to the investigating authority that issued it under the supervision of the trial court. However, if the accused has argued that this procedure is invalid, the court must present this essential defense and respond to it by accepting or rejecting it with justifiable reasons. Whereas the contested judgment relied on refusing to pay the nullity of the search warrant because of the seriousness of the investigations to say that the seizure of the drug in the possession of the appellant is evidence of the seriousness of the police investigations, which is not valid in response to this defense, as the seizure of the drug is a new element in the lawsuit subsequent to the police investigations and the issuance of the search warrant, but it is intended to conduct the search, it is not valid to take it as evidence of the seriousness of the investigations preceding it, because the condition of the validity of the issuance of the permit is preceded by serious investigations that are likely to be the ratio of the crime to the person authorized to search it, which required the court, in order to determine its response to the payment, to express its opinion on the elements of the investigations preceding the warrant without other elements subsequent to it and

The search must be for a crime that has already occurred. It is not permissible to carry out the search to seize a future crime, even if the investigations indicate that it will inevitably occur [848].

to say its word in sufficiency or inadequacy to justify the issuance of the permission from the investigating authority, but it did not do so, its ruling is defective and corrupt in the inference] Appeal No. 942 of the year 38 issued at the hearing of June 17, 1968, published in Part II of the Technical Office Book No. 19, page 713, rule No. 144

It ruled that: [It is decided that the assessment of the seriousness of the investigations and their sufficiency to justify the search order is from the subject matter in which the judge is independent without a comment, and since the contested judgment has invalidated the search warrant based on the lack of seriousness of the investigations, it was found that the officer who issued it if he had found in his investigation the intended accused to know the truth of his name and knew the truth of the trade practiced by him in particular and the accused is known by his real name registered in his file at the Drug Enforcement Office and was previously seized in a similar case, the conclusion of the judgment was not based solely on the error in the name of the intended inspection, but rather was due to the lack of investigation, which invalidates the order and wastes the evidence revealed by its implementation] Appeal No. 639 of 48 Q issued at the hearing of November 26, 1978 and published in the first part of the Technical Office's book No. 29 page 830 rule No. 170

It also ruled: [The contested judgment has responded to the appellant's argument of the invalidity of the prosecution's permission to arrest and search for its issuance based on non-serious investigations by saying ".. Whereas the court is satisfied with the investigations conducted because they are frank and clear and contain sufficient data and information to issue permission and truthfully conducted by the accused regarding the possession of drugs and is convinced that they were actually conducted with the knowledge of Major ..... It is not necessary to follow the time between the date of writing the investigation report and the date of issuing the permission, especially since the law did not specify a specific destination and there was no penalty for the length of the time period between them, even if the court considers this to be a material error, and therefore the permission was based on serious investigations and the defendant's plea in that regard is not on a sound basis. " Whereas, it is decided that the assessment of the seriousness of the investigations and their sufficiency to justify the issuance of the search warrant, although it is entrusted to the investigating authority that issued it under the supervision of the trial court, but if the accused has pleaded the invalidity of this procedure, the court must present this substantive plea and say its word in it with justifiable reasons, and since the contested judgment has been sufficient to respond to the appellant's plea with the phrase that passed through the statement, which is a general statement that does not face the evidence of payment and is not able to determine the integrity of the elements of the investigations prior to the search warrant, indicating that they focused on the authorized searcher and his connection with the drug, and the court has based its conviction on the evidence derived from the implementation of this warrant, the judgment is flawed by default and corruption Inference, which requires its reversal and return without the need to examine the rest of the aspects of the appeal].Appeal No. 145 of 79 issued on November 10, 2010 (unpublished)

It ruled that: [It is decided to assess the seriousness and adequacy of the investigations - to justify the issuance of the search warrant, even if it is entrusted to the investigating authority that issued it under the supervision of the trial court. However, if the accused has pleaded the invalidity of this procedure, the court must present this fundamental plea and respond to it by accepting or rejecting it with justifiable reasons, and since the contested judgment has only responded to the appellant's plea with a minor phrase that does not enable it to find the justifications for the ruling in this regard, If the court did not express its opinion on the elements of the investigations preceding the search warrant, especially the weighting of the ratio of the drug to the appellant, although it based its conviction on the evidence derived from the implementation of this warrant, the judgment is flawed by the deficiency in the reasoning that invalidates it, and it does not change that the judgment states in the entire statement of the incident that the appellant scores the drug, as long as in the course of his response to the payment he did not rely on what he received, confirming its sufficiency to determine the person authorized to search and his relationship to the drug, since the foregoing, it must be overturned The contested judgment and the return without the need to discuss the rest of the aspects of the appeal]. Appeal No. 4992 of 78 S issued at the session of September 29, 2009 (unpublished).

([848]) Appeal No. 12630 of 80 S issued at the hearing of June 6, 2011 (unpublished), Appeal No. 28305 of 73 S issued at the hearing of April 20, 2008 (unpublished), Appeal No. 3126 of 66 S issued at the hearing of March 20, 2005 (unpublished), Appeal No. 30639 of 72 S issued at the hearing of April 23, 2003 and published in the book of the Technical Office No. 54, page No. 583, rule No. 74, Appeal No. 2358 of 54 s issued at the session of January 24, 1985 and published in the first part of the Technical Office letter No. 36 page 117 rule No. 16, Appeal No. 1215 of 49 s issued at the session of December 20, 1979 and published in the first part of the Technical Office letter No. 30 page 962 rule No. 206, Appeal No. 305 of 44 s issued at the session of March 17, 1974 and published in the first part of the Technical Office letter No. 25 page 292 rule No. 64, Appeal No. 643 of 44 s issued at the session of June 23, 1974 and published in the first part of Technical Office Letter No. 25 Page No. 621 Rule No. 133, Appeal No.

The law does not necessarily require that the judicial officer has spent a long time in these investigations, or that he personally monitors the persons investigated or has previous knowledge of them, but rather that he may use his investigations, research, or the means of excavation with his assistants from the public authority, secret informants, and those who inform him of the crimes that have already occurred, as long as he is personally convinced of the validity of what they have conveyed to him and the truth of the information he has received [849].

1538 of 44 S issued at the 22nd session of December 1974 and published in Part I of Technical Office Letter No. 25 Page No. 876 Rule No. 190, Appeal No. 1476 of 36 S issued at the 7th session of February 1967 and published in Part I of Technical Office Letter No. 18 Page No. 174 Rule No. 34, Appeal No. 1232 of 37 S issued at the 16th session of October 1967 and published in Part III of Technical Office Letter No. 18 Page No. 965 Rule No. 195, Appeal No. 2 of 36 S issued at the hearing of March 1, 1966 and published in the first part of the Technical Office Letter No. 17 Page No. 221 Rule No. 42Appeal No. 12630 of 80 S issued at the hearing of June 6, 2011 (unpublished), Appeal No. 28305 of 73 S issued at the hearing of April 20, 2008 (unpublished), Appeal No. 3126 of 66 S issued at the hearing of March 20, 2005 (unpublished), Appeal No. 30639 of the year 72 S issued in the session of April 23, 2003 and published in the Technical Office letter No. 54 page No. 583 rule No. 74, Appeal No. 2358 of the year 54 S issued in the session of January 24, 1985 and published in the first part of the Technical Office letter No. 36 page No. 117 rule No. 16, Appeal No. 1215 of the year 49 S issued in the session of December 20, 1979 and published in the first part of the Technical Office letter No. 30 page No. 962 rule No. 206, Appeal No. 305 of 44 S issued at the session of March 17, 1974 and published in the first part of the Technical Office letter No. 25 page 292 rule No. 64, Appeal No. 643 of 44 S issued at the session of June 23, 1974 and published in the first part of the Technical Office letter No. 25 page 621 rule No. 133, Appeal No. 1538 of 44 S issued at the session of December 22, 1974 and published in the first part of the Technical Office letter No. 25 page 876 rule No. 190, Appeal No. 1476 of 36 S issued at the session of 7 From February 1967 and published in the first part of the Technical Office book No. 18 Page 174 Rule No. 34, Appeal No. 1232 of 37 s issued in the session of 16 October 1967 and published in the third part of the Technical Office book No. 18 Page 965 Rule No. 195, Appeal No. 2 of 36 s issued in the session of 1 March 1966 and published in the first part of the Technical Office book No. 17 Page 221 Rule No. 42 in the first part of the Technical Office book No. 17 Page 221 Rule No. 42, Appeal No. 1476 of 36 s issued in the session of 7 February 1967 and published in the first part of the Technical Office book No. 18 Page 174 Rule No. 34, Appeal No. 1232 of 37 s issued in the session of 16 October 1967 and published in the third part of the Technical Office book No. 18 Page 965 Rule No. 195

The Court of Cassation ruled that: [Permission to search is an investigation procedure that may not be legally issued except to seize a crime of " felony or misdemeanor " that has already occurred and is attributed to the person authorized to search it, and therefore it is not valid to issue it to seize a future crime even if serious investigations and evidence indicate that it will actually occur. If the impugned judgment proves that there was no crime committed by the appellant when the Public Prosecution issued its search warrant, but the warrant was issued based on the officer's decision that the accused and his colleague would transport a quantity of the drug out of the city, then the judgment condemns the appellant without showing whether his and his colleague's achievement of the drug was prior to the issuance of the search warrant or not, is tainted by the inadequacy and error in the application of the law]. Appeal No. 3156 of 31Q issued at the session of January 1, 1962 and published in the first part of the Technical Office's letter No. 13 page No. 20 Rule No. 5.

([849]) Appeal No. 12230 of 88 S issued at the session of January 2, 2021 (unpublished), Appeal No. 12222 of 88 S issued at the session of January 2, 2021 (unpublished), Appeal No. 8047 of 88 S issued at the session of November 14, 2019 (unpublished), Appeal No. 42151 of 85 S issued at the session of November 25, 2017, Appeal No. 14158 of 69 S issued at the session of March 10, 2003, Appeal No. 7527 of 79 S issued at the 7th session of March 2015 and published in Technical Office Letter No. 66 Page 274 Rule No. 37, Appeal No. 16871 of 83 S issued at the 6th session of April 2014 and published in Technical Office Letter No. 65 Page 240 Rule No. 24, Appeal No. 20535 of 83 S issued at the 2nd session of April 2014 and published in Technical Office Letter No. 65 Page 207 Rule No. 21, Appeal No. 11545 of 82 S issued at the 3rd session of November 2013 and published in Technical Office Letter No. 64 Page 880 Rule No. 135, Appeal No. 264 of 78 s issued at the session of October 5, 2013 and published in the Technical Office letter No. 64 page No. 801 rule No. 119, Appeal No. 5826 of 82 s issued at the session of May 4, 2013 and published in the Technical Office letter No. 64 page No. 561 rule No. 80, Appeal No. 68482 of 76 s issued at the session of January 16, 2013 and published in the Technical Office letter No. 64 page No. 138 rule No. 14, Appeal No. 15382 of 77 S issued at the session of May 3, 2010 and published in the Technical Office letter No. 61, page No. 352, rule No. 47, Appeal No. 19775 of 74 S issued at the session of April 4, 2005 and published in the Technical Office letter No. 56, page No. 245, rule No. 36, Appeal No. 5822 of 61 S issued at the session of December 24, 1992 and published in the first part of the Technical Office letter No. 43, page No. 1222, rule No. 190, Appeal

The failure to indicate the name of the accused, his surname, his age, his place of residence, his industry, or the charges against him specified in the record of collecting evidence does not in itself give rise to the seriousness of the investigations it contains, and the failure to mention the antecedents of the accused or those dealing with him does not in itself break the lack of seriousness of the investigations as long as the court is satisfied that this person who was searched is in fact the very person intended by the search warrant[850] .

No. 256 of 61 S issued at the session of October 8, 1992 and published in the first part of the letter Technical Office No. 43 Page 804 Rule No. 123, Appeal No. 45761 of 59 S issued at the hearing of November 7, 1990 and published in Part I of Technical Office Letter No. 41 Page No. 998 Rule No. 177, Appeal No. 5831 of 56 S issued at the hearing of March 5, 1987 and published in Part I of Technical Office Letter No. 38 Page 387 Rule No. 60, Appeal No. 412 of 50 S issued at the hearing of June 9, 1980 and published in Part I of Technical Office Letter No. 31 Page 742 Rule No. 143, Appeal No. 1190 of 46 S issued at the hearing of April 3, 1977 and published in Part I of Technical Office Letter No. 28 Page 436 Rule No. 90

It ruled that: [The short period of the investigation and the absence of the investigation report of the statements made by the appellants on the grounds of their appeal and the lack of seizure of weapons and ammunition in the possession of the defendants contrary to what was written in the investigation report and the absence of a record between the first defendant and the fifth witness does not in itself cut short the lack of seriousness of the investigation] Appeal No. 22305 of 83 S issued at the session of 12 October 2014 and published in the book of the Technical Office No. 65 page No. 656 Rule No. 85 , Appeal No. 3075 of 83 S issued at the session of 7 April 2014 and published in the book of the Technical Office No. 65 page No. 262 Rule No. 27

It also ruled that: [The contested judgment concluded with the validity of the plea of nullity of the search warrant and its consequences and acquitted the respondent based on what it stated. "Whereas it was established in the investigation report on which the permission was issued that the head of the Sherbin Center Investigation Unit carried out the investigations and continuous monitoring of the accused until it was confirmed that he possessed the drug and traded in it, while he himself proved in the investigation report that he was accompanied by a secret police force to implement the permission and behind a street cafe in front of the General Hospital from the eastern side, he found a person sitting alone. When he asked his name, it became clear to him that he was the person who obtained the permission of the prosecution to seize and search him. He repeated this and confirmed it in his statements in the investigation of the prosecution. He added that the investigations conducted by the source were confidential and that he did not know the person of the accused, which refutes what he said in the investigation report on which the permission was issued based on the fact that the investigations conducted by him and his continuous monitoring of the accused confirmed the possession of the drug. These investigations are just a report he received from a secret guide or someone that the accused is in possession of a drug intended for trafficking, which there is no way to issue The search warrant for the lack of serious investigations and then the plea of nullity of the permission to arrest and search the accused has been based on a valid basis of fact and law. The warrant and what followed and resulted in it is null and void, and if this means that the court nullified the search warrant based on the lack of seriousness of the investigations because it found that the officer proved in the investigation report that he was the one who carried out the investigations and continuous monitoring of the respondent and did not invalidate the permit simply because the officer did not carry out the investigations and monitoring himself, which is a reasonable conclusion that the trial court has. Whereas it is established that the seriousness of the investigations and their sufficiency to justify the search order is one of the issues on which the judge is independent without comment, and therefore the appeal is on the basis of [Appeal No. 1415 of 49 BC issued at the session of January 16, 1980 and published in the first part of the Technical Office's letter No. 31 page No. 85 rule No. 17.

([850]) Appeal No. 12222 of 88 S issued at the session of January 2, 2021 (unpublished), Appeal No. 25295 of 83 S issued at the session of June 7, 2014, Appeal No. 12293 of 83 S issued at the session of June 1, 2014, Appeal No. 7369 of 83 S issued at the session of December 4, 2013 and published in the book of the Technical Office No. 64 page No. 1020 rule No. 151, Appeal No. 5826 of 82 S issued at the session of May 4, 2013 2013 and published in Technical Office Letter No. 64 Page No. 561 Rule No. 80, Appeal No. 6010 of 81 S issued at the session of January 12, 2012 and published in Technical Office Letter No. 63 Page No. 68 Rule No. 8, Appeal No. 13166 of 80 S issued at the session of October 18, 2011, Appeal No. 1387 of 73 S issued at the session of January 11, 2010 and published in Technical Office Letter No. 61 Page No. 26 Rule No. 3, Appeal No. 28926 of 71 S issued at the session of April 5, 2009, Appeal No. 17757 of 77 S issued at the hearing of March 19, 2009, Appeal No. 20657 of 73 S issued at the hearing of December 14, 2008, Appeal No. 29838 of 72 S issued at the hearing of September 7, 2008, Appeal No. 1103 of 78 S issued at the hearing of June 2, 2009 and published in the Technical Office letter No. 60, page No. 262, rule No. 36, Appeal No. 30497 of 75 S issued at the hearing of November 5, 2008 and published in the Technical

Office letter No. 59, page No. 472, rule No. 87, Appeal No. 12652 of 69 S issued at the session of 18 October 2007, Appeal No. 17098 of 68 S issued at the session of 17 April 2007 and published in the letter of the Technical Office No. 58 page No. 362 Rule No. 69, Appeal No. 9082 of 68 S issued at the session of 20 March 2007 and published in the letter of the Technical Office No. 58 page No. 260 Rule No. 53, Appeal No. 21505 of 71 S issued at the session of 19 October 2005 and published in the letter of the Technical Office No. 56 page No. 506 Rule No. 76, Appeal No. 21505 of 71 S issued at the session of October 19, 2005 and published in the letter of the Technical Office No. 56 page No. 506 rule No. 76, Appeal No. 38371 of 73 S issued at the session of October 20, 2004 and published in the letter of the Technical Office No. 55 page No. 691 rule No. 104, Appeal No. 30864 of 69 S issued at the session of July 26, 2003 and published in the letter of the Technical Office No. 54 page No. 806 rule No. 108, Appeal No. 3506 of 72 s issued at the session of July 3, 2003 and published in the Technical Office letter No. 54, page No. 752, rule No. 100, Appeal No. 890 of 65 s issued at the session of February 12, 1997 and published in the first part of the Technical Office letter No. 48, page No. 164, rule No. 24, Appeal No. 16635 of 62 s issued at the session of July 5, 1994 and published in the first part of the Technical Office letter No. 45, page No. 760, rule No. 119, Appeal No. 12751 of 62 s issued at the session of June 2, 1994 Published in the first part of Technical Office Letter No. 45 Page No. 688 Rule No. 105, Appeal No. 4995 of 62 S issued in the session of February 13, 1994 and published in the first part of Technical Office Letter No. 45 Page No. 243 Rule No. 36

The Court of Cassation ruled that: [... What the appellant raises is that the investigations did not indicate that he was acquiring or possessing a narcotic substance, but rather that he was trafficking in it, and that the officer of the incident testified that after he had obtained the permission of the Public Prosecution to arrest and search him, his confidential source contacted him and told him that the appellant would hand over a quantity of narcotic substances to one of his clients the next day. Rather, he justified what the prosecutor, the source of the permission, and then the contested judgment concluded that the crime had already occurred because the trafficking in narcotic substances and the delivery of the drug on a later day required that the accused was already in possession or possession of the drug before the delivery was made or agreed upon. Therefore, the interpretation taken by the trial court of what was stated in the investigation report that the appellant was trafficking in narcotic substances and concluded that the officer's investigations indicated that the appellant was in possession and possession of narcotic substances at the time of the issuance of the inspection permit is consistent with what this phrase carries and does not appear to have its meaning . Whereas, it was clear from the records of the judgment that the crime that the appellant condemned had occurred when the Public Prosecution issued its permission to arrest and search, and what the judgment stated was reasonable, and does not contradict it, in a way that resolves everything that the appellant raises from the issue of deficiency and contradiction in causation and error in attribution to an objective controversy in the subject court's assessment of the evidence in the case, which may not be confiscated in it before the Court of Cassation]. Appeal No. 27661 of 72 BC issued at the 22nd session of December 2003 (Unpublished) and the Court of Cassation ruled that: Since the court had invalidated the search warrant based on the lack of seriousness of the investigations, it found that the officer who had issued it had found in his investigation of the first accused to have reached the address and residence of the accused. Ignorant and devoid of his record of referring to his work and determining his age, this discloses a deficiency in the investigation that invalidates the order he issued and wastes the evidence revealed by its implementation, which is a reasonable conclusion owned by the Court of Appeal No. 2360 of 54 BC issued at the session of April 9, 1985 and published in part First of Technical Office Letter No. 36 Page No. 555 Rule No. 95

It ruled that: [Whereas the contested judgment acquitted the contested defendant, saying in the reasoning for his judgment what it reads: "Whereas it is established from reading the investigation report on which the prosecution's permission to search the defendant was issued that it contained only the name of the defendant and that from the area of Gheit al-Anab of the Karmouz department without specifying the place of residence of the defendant in this area or his work or age and ignorance of these matters clearly indicates the lack of seriousness of the investigations and their inadequacy to justify the issuance of the search warrant, and therefore the defense of the invalidity of the prosecution's permission to search is in place, and this foretells the invalidity of the search and the exclusion of the evidence derived from it, as well as a certificate from it and all that resulted from it, even if it was a confession issued in its wake to the arrestees." Whereas the court invalidated the search warrant based on the lack of seriousness of the investigations because it found that the officer who issued it, had he diligently investigated the accused, would have reached the address and residence of the accused, ignorant and devoid of his record of referring to his work and determining his age, due to his lack of investigation, which invalidates the order he issued and wastes the evidence revealed by its implementation, which is a drafting conclusion owned by the trial court, and the assessment of the seriousness of the investigations and their adequacy to justify the search order was from the subject matter in which his judge is independent without comment. In view of the foregoing, the appeal shall be without grounds for rejection] Appeal No. 720 of 47 s issued at the session of December 4, 1977 and published in the first part of the Technical Office's letter No. 28 page No. 1008 rule No. 206.

The error in indicating the name of the person to be searched or his profession by imposing his occurrence does not in itself give rise to the seriousness of the investigations contained in the inference report as long as it is intended to investigate [851].

([851]) Appeal No. 12230 of 88 S issued at the session of January 2, 2021 (unpublished), Appeal No. 41801 of 85 S issued at the session of May 30, 2016 and published in the Technical Office's letter No. 67 page No. 570 Rule No. 65, Appeal No. 3072 of 83 S issued at the session of February 11, 2014, Appeal No. 5400 of 81 S issued at the session of January 21, 2012 and published in the Technical Office's letter No. 63 page No. 109 Rule No. 13, Appeal No. 11793 of 76 S issued at the session of January 21, 2010, Appeal No. 20025 of 77 S issued at the session of March 8, 2009, Appeal No. 37251 of 74 S issued at the session of September 7, 2008, Appeal No. 3998 of 69 S issued at the session of November 15, 2003 and published in the Technical Office Letter No. 54 Page No. 1086 Rule No. 147, Appeal No. 10105 of 64 S issued at the session of April 21, 1996 and published in the first part of the Technical Office Letter No. 47 Page No. 544 Rule No. 76, Appeal No. 372 of 60 S issued at the session of April 11, 1991 and published in the first part of the Technical Office book No. 42 page No. 653 rule No. 95, Appeal No. 45761 of 59 S issued at the session of November 7, 1990 and published in the first part of the Technical Office book No. 41 page No. 998 rule No. 177, Appeal No. 2357 of 53 S issued at the session of January 30, 1986 and published in the first part of the Technical Office book No. 37 page No. 173 rule No. 36, Appeal No. 869 of 46 S issued at the session of December 26, 1976 and published in the first part of the Technical Office book No. 27 page No. 978 rule No. 220, Appeal No. 1103 of 45 S issued at the session of October 26, 1975 and published in the first part of the Technical Office book No. 26 page No. 627 rule No. 140

The Court of Cassation ruled that: It is scheduled that the assessment of the seriousness of the investigations and their sufficiency to justify the search order is from the subject matter in which its judge is independent without comment. The contested judgment had invalidated the search warrant based on the lack of seriousness of the investigations, as it was found that the officer who issued it, if he had found in his investigation of the intended accused, knew that he had converted to Islam and changed his name. Therefore, the basis of the judgment was not just the error in the name of the intended search, but rather it was due to the failure to investigate, which invalidates the order and wastes the evidence revealed by its implementation, which is a reasonable conclusion possessed by the trial court, and therefore the appellant's claimant is misplaced.], Appeal No. 27140 of 67 S issued in the session of February 26, 2007 and published in the letter of the Technical Office No. 58 page No. 163 rule No. 34

It also ruled that: [It is decided that the assessment of the seriousness of the investigations and their sufficiency to justify the search order is from the subject matter on which the judge is independent without comment, and the contested judgment invalidated the search warrant based on the lack of seriousness of the investigations, as it was found that the officer who issued it had found in his investigation of the intended accused to determine the work of the accused and the address of his residence sufficiently to negate ignorance by mentioning the street in which he resides and the number of the residence. The basis of the judgment was not just the error in the name of the intended search, but rather it was due to the shortcoming in the investigation, which invalidates the order and wastes the evidence revealed by its implementation, which is a reasonable conclusion possessed by the trial court, and therefore the appellant in this regard is misplaced.], Appeal No. 20276 of 66 Q issued in the session of 1 January 2006 and published in the Technical Office's book No. 57, page 27, rule No. 1

The Court of Cassation ruled that: [It is scheduled that the assessment of the seriousness of the investigations and their sufficiency to justify the search order is from the subject on which its judge is independent, and since the court invalidated the search order based on the lack of seriousness of the investigations, it was found that the officer who issued it, had he found in his investigation of the intended accused, would have known the truth of her name and the work she practiced. Ignorant and devoid of his record of reference to her age and place of residence in particular, this discloses a deficiency in the investigation that invalidates the order that he issued and wastes the evidence revealed by its implementation, and did not invalidate the order simply because of the error in the name of the person authorized to search it, which is a conclusion owned by the trial court and therefore the appellant's prohibition in this regard is misplaced, since the foregoing, the appeal is on a basis that must be rejected on the merits] Appeal No. 28531 of 64 BC issued at the session of March 21, 2004 and published in the letter of the Technical Office No. 55 page No. 266 rule No. 37

It ruled that: [It is decided that the assessment of the seriousness of the investigations and their sufficiency to justify the search order is from the subject matter in which his judge is independent without comment, and since the contested judgment invalidated the search warrant based on the lack of seriousness of the investigations, it was found that the officer who issued it if he had found in his investigation the intended accused to know the truth of his name and knew the truth of the trade he practiced in particular and the accused is known by his real name registered in his file at the Drug Enforcement Office and was previously seized in a similar case, the conclusion of the judgment was not based solely on the error in the name of the intended inspection, but rather was due to the lack of

The failure to specify the place where the drug is stored in the residence of the person authorized to inspect it, the failure to indicate the social and health status of the accused, the statement of his precedents in the record of the inference, or the prosecution of the proceedings does not in itself give rise to the seriousness of the investigations contained therein, as long as he is the person intended for the permission and the permission was implemented within the period specified therein [852].

3- Time and place of inspection

In cases where it is permissible to arrest the accused, the bailiff may search him and the car he drives [853].

Whenever an order is issued by the Public Prosecution to search a person, the judicial officer delegated to conduct it may execute it wherever he finds it, as long as the place where the search took place is within the jurisdiction of the person who issued the order and who executed it [854].

If the search warrant is issued correctly or in cases where it is legally permissible to search, the police officer has the right to choose the appropriate time and place to conduct it within the limits of the warrant and the law [855].

investigation, which invalidates the order and wastes the evidence revealed by its implementation, which is a reasonable conclusion owned by the trial court and therefore the appellant's appeal is misplaced] Appeal No. 639 of 48 Q issued at the hearing of 26 November 1978 and published in the first part of Technical Office Book No. 29, page No. 830, rule No. 170.

([852]) Appeal No. 28576 of 72 S issued at the 2nd session of July 2006, Appeal No. 37227 of 73 S issued at the 16th session of December 2004 and published in the Technical Office's letter No. 55, page No. 824, rule No. 124, Appeal No. 1702 of 66 S issued at the 5th session of January 1998 and published in the first part of the Technical Office's letter No. 49, page No. 50, rule No. 5.

([853]) Appeal No. 49902 of 85 S issued at the session of February 28, 2017 (unpublished).

([854]) Appeal No. 1048 of 44 S issued at the session of 29 November 1979 and published in the first part of the book of the Technical Office No. 30 page No. 845 rule No. 182, Appeal No. 2091 of 48 S issued at the session of 19 April 1979 and published in the first part of the book of the Technical Office No. 30 page No. 490 rule No. 103..

([855]) Appeal No. 12222 of 88 S issued at the session of January 2, 2021 (unpublished), Appeal No. 17 of 49 S issued at the session of April 29, 1979 and published in the first part of the book of the Technical Office No. 30 page No. 511 rule No. 108.

It ruled that: [Whereas it is established from the records of the judgment and from the included vocabulary that the Prosecution's permission issued on the basis of the investigation report dated 20/7/1973 to inspect the Appellee to seize the narcotic substances he obtains upon his arrival in Alexandria returning from Cairo by train, which departs at two and a third in the evening, was issued at four o'clock in the evening on 20/7/1973, provided that it is done once and within twenty-four hours from the date of its issuance, so the officer authorized to conduct the inspection seized the Appellee Upon his arrival at Sidi Gaber station, he was searched by the subsequent train, which arrived at it at 9:15 pm on the same day, that is, within the time period specified by the permission, and it was decided that the judicial officer assigned to implement the prosecution's permission to search would choose the appropriate circumstance to conduct it in a fruitful manner and at the time he deems appropriate, as long as this is done within the period specified by the permission - as in the case - the contested judgment ended in the nullity of the search and the subsequent procedures based on the fact that it was done after exhausting the scope of the prosecution's permission to search, it violated the reality, which led him to an error in the application of the law Hence it has to be overturned. Since this error has prevented the court from considering the merits of the case and assessing its evidence, it must be with the cassation referral] Appeal No. 1881 of 48 BC issued at the session of March 18, 1979 and published in the first part of the book of the Technical Office No. 30 page No. 351 rule No. 72.

The judicial officer assigned to implement the permission of the Public Prosecution to search may choose the appropriate circumstance to conduct it in a fruitful manner at the time he deems appropriate, as long as this is done within the period specified by the permission, and when the inspection carried out by the judicial officers is legally authorized, the method of conducting it is left to the opinion of the person carrying it [856].

And that the defense of the invalidity of the search of the residence of the first accused for its occurrence by deception and deception that the second witness assumed the status of a doctor in order to be able to enter the residence, it is due to the fact that it is decided that the judicial officers, if authorized by the Public Prosecution to conduct a search, take what they see as sufficient to achieve its purpose without committing to it in a specific way as long as they do not go out in their procedures to the law, and they have the choice of the appropriate circumstance to conduct it in a fruitful manner, and therefore there is no implication on the judicial officer assigned to search - in this case - in what he did to implement the permission as long as he saw it as a fruitful means to enter the residence of the first accused authorized to search it [857].

The inspection may be carried out at any time, day and night, as the Egyptian legislation did not restrict the inspection to a certain time.

The accused person authorized to be searched may also be searched in any place where he is found, as long as that place is within the jurisdiction of the searcher and the source of the permission [858].

However, the court must verify the status of the judicial officer authorized to inspect and the extent of his spatial competence when conducting the inspection [859].

The law does not require the investigator to accompany a writer during the inspection [860].

([856]) Appeal No. 12230 of 88 S issued at the session of January 2, 2021 (unpublished), Appeal No. 5556 of 86 S issued at the session of April 8, 2018 (unpublished).

([857]) Appeal No. 30639 of 72 S issued at the session of 23 April 2003 and published in the letter of the Technical Office No. 54 page No. 583 rule No. 74.

([858]) Article 344 of the Judicial Instructions of the Public Prosecution.

([859]) The Court of Cassation ruled that: [The lesson in spatial jurisdiction is the fact of reality, and if its appearance was lax until the time of trial, as it was, and it was proven from reviewing the included vocabulary that the search warrant was issued on January 31, 1973 by the prosecutor of the Abu Tij Center in the head of the captain ... ... - "To conduct it without reference to his capacity or spatial competence - although it was mentioned in the record of the investigation that he works as head of the Investigation Unit of Sedfa Center, and it was clear from the statements of the Abu Tig Center Investigation Officer in the investigations of the prosecution - and what was revealed - after that - the letter of the Assiut Security Directorate - that the said captain was working - at the time of the search warrant - as head of the Abu Tig Center Investigation Unit - which the search took place in his department, which required the court to conduct an investigation in this regard before it concluded that the warrant was null and void - but it did not do so and sent the statement that the officer authorized to conduct the search was not competent to what came with the search warrant despite the absence of what supports it, its ruling is flawed] Appeal No. 186 of the year 46 Q issued in the hearing of May 17, 1976 and published in the first part of the Technical Office book No. 27, page 491, rule No. 109..

([860]) Appeal No. 612 of 31 S issued at the session of October 23, 1961 and published in the third part of the book of the Technical Office No. 12 page No. 841 rule No. 165.

4- Female Inspection

The search must be carried out by a female assigned by the judicial officer if the accused is a female [861] .

The legislator's intention is to require the female to be searched by a female when the inspection is one of the physical places that the judicial officer may not see and view is to preserve the nakedness of the woman who scratches her modesty if she touches it, and the female must be searched by a female when the female is actually searched in the physical places that are considered among the nakedness that the person who executes the permission may see and view them because of the accidental scratching of the female's modesty [862] .

If the seizures made by the judicial police officer in the hands of the accused do not involve harming or reviewing the woman's insults, there is no invalidity of the search he conducted because it was not conducted with the knowledge of a female [863] .

The law does not require the search warrant officer to accompany a female when he moves to search a female, whether the search is without a warrant in cases where it is permissible to do so or in the event that a warrant is issued by the competent judicial authority addressed to the person who executes the warrant [864] .

The law did not require writing when delegating the female for inspection, even if it required her to take the oath before performing the task assigned to her, unless it was feared that her testimony could not be heard later under oath [865] .

([861]) The second paragraph of Article 46 of the Criminal Procedure Law..

([862]) Appeal No. 760 of 81 S issued at the session of 3 November 2011 and published in the Technical Office's letter No. 62, page No. 356, rule No. 60, Appeal No. 19840 of 65 S issued at the session of 19 October 1997 and published in the first part of the Technical Office's letter No. 48, page No. 1123, rule No. 169.

([863]) Appeal No. 42442 of 85 S issued at the 25th session of November 2017 (unpublished), Appeal No. 4152 of 59 S issued at the 23rd session of November 1989 and published in Part I of Technical Office Book No. 40 Page No. 1061 Rule No. 170, Appeal No. 6304 of 52 S issued at the 22nd session of February 1983 and published in Part I of Technical Office Book No. 34 Page No. 257 Rule No. 49, Appeal No. 1341 of 49 S issued at the 6th session of January 1980 and published in Part I of Technical Office Book No. 31 Page No. 58 Rule No. 11, Appeal No. 1068 of 45 S issued at the 19th session of October 1975 and published in Part I of Technical Office Book No. 26 Page No. 596 Rule No. 134

See the first paragraph of Article 342 of the Judicial Instructions of the Public Prosecution, which stipulates that: "If the subject of the search is a female, the search must be carried out by a female assigned by the judicial police officer. The search may be carried out by the police officer if it does not reach the physical positions of the woman who is not allowed to see her. If the police officer picks the thing from among the fingers of the accused or holds her hand and opens it forcibly to take what is inside, the search is correct..."..

([864]) Appeal No. 760 of 81 S issued at the session of 3 November 2011 and published in the letter of the Technical Office No. 62 page No. 356 rule No. 60..

([865]) Article 342 of the Judicial Instructions of the Public Prosecution.

This is limited to verbal scarring, so the hospital director assigns one of the nurses to search the accused at the request of the seizure officer, correct [866].

The detection of the drug in a sensitive place on the body of the appellant by the hospital doctor does not affect the safety of the procedures, as he carried out this procedure as an expert and what he did was only an exposure to the accused to the extent required by the process of medical intervention necessary to remove the drug from the place of hiding in her body [867].

5- Scope of Inspection

First: Searching the person against whom there is strong evidence and was present in the house of the accused during the search

The principle is that the search is limited to the person authorized to search it or found in flagrante delicto and against whom there is sufficient evidence to commit a crime.

The principle is also that the search of the place is focused on it and its movables only, and does not extend to the persons present in it, because the freedom of the person is separate from the inviolability of his home, but the law allowed an exception in Article 49 of the Code of Criminal Procedure to search the person present in the place, whether accused or not, if there is strong evidence that he is hiding something useful in revealing the truth, and this right is exceptional, it must not be expanded [868].

The Code of Criminal Procedure allows the judicial officer to search whoever is in the house of the accused if, during the search of the accused's house, strong evidence is made against the accused or a person present in it that he is hiding with him something useful in revealing the truth [869].

In this regard, the Court of Cassation ruled that: [It is established that it is sufficient to say that the case of flagrante delicto obtained the drug that there are external manifestations that predict the occurrence of the crime in themselves, and it is not required that the person who witnessed these manifestations has found out what is the possession of the bag containing the seized drug among the three appellants and seized them, these circumstances are considered a strong presumption that the appellants with them are useful in revealing the truth, which allows the judicial officer to search them pursuant to Article 49 of the Code of Criminal Procedure, and the performance of the foregoing indicates in itself on the other hand, regardless of whether the search warrant includes the appellants or not, that sufficient evidence has been established to charge them with the crime of obtaining a drug, which justifies the record of judicial arrest and search of the seized bag with

([866]) Appeal No. 143 of 49 S issued at the session of May 17, 1979 and published in the first part of the book of the Technical Office No. 30 page No. 588 rule No. 125.

([867]) Appeal No. 1471 of 45 S issued on January 4, 1976 and published in the first part of the Technical Office's letter No. 27 page No. 9 rule No. 1.

([868]) Appeal No. 438 of 27 S issued at the session of June 19, 1957 and published in the second part of the book of the Technical Office No. 8 page No. 681 rule No. 184.

([869]) Article 49 of the Criminal Procedure Law.

them in accordance with the provisions of Articles 34/1, 46 of the Code of Criminal Procedure, and therefore the seizure of the drug with them is free from invalidity][870].

The Court of Cassation also ruled that: [When the permission to search is limited to the other accused and his residence, it was not permissible for the judicial officer authorized to conduct it to search the appellee unless there is a case of flagrante delicto in accordance with Article 30 of

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([870]) Appeal No. 3225 of 81 S issued at the session of November 20, 2012 and published in the letter of the Technical Office No. 63 page No. 742 rule No. 132

The Court of Cassation also ruled that: [Since the judgment was invoked in the statement of the case and in its response to the appellant's plea that the arrest and search procedures are null and void, there is a case of flagrante delicto of the crime of drug possession against her, as revealed by the two officers watching her in the hall of her husband's residence, where permission was issued to search him for drugs and the two officers saw her at the time taking out a box from her pocket and trying to get rid of it by throwing it on the ground. It does not affect the availability of this case, what the appellant raises that the two officers did not see what was inside the box and its contents before arresting and searching it, because it is decided that it is enough to say that the case of flagrante delicto achieved the drug that there are external manifestations that predict the occurrence of the crime in themselves, and it is not required that those who witnessed these manifestations have shown what the material they saw. On the other hand, since the judgment proved that the two officers authorized to search had found the appellant in her husband's residence authorized to search him, and as soon as she saw them, she took the box out of her pocket, and tried to get rid of it by throwing it on the ground, so the officer seized her right hand with the box containing the drug, these circumstances are considered a strong presumption that the appellant is hiding with her something useful in revealing the truth, which allows the judicial officer to search her pursuant to Article 49 of the Code of Criminal Procedure. The performance of the foregoing also indicates in itself, on the other hand, regardless of whether the search warrant includes the appellant or not, that there is sufficient evidence that she is accused of the crime of obtaining a drug, which justifies the record of her arrest and the search of the seized box in her hand in accordance with the provisions of Articles 34 (1) and 46 of the Code of Criminal Procedure. Therefore, the seizure of the box containing the drug in the hands of the appellant shall be free from invalidity] Appeal No. 1068 of 45 BC issued at the session of October 19, 1975 and published in the first part of the Technical Office's letter No. 26 page No. 596 rule No. 134

It ruled that: [When it was clear from the review of the papers that the court ordered to be included in the investigation of the appeal that the investigation report included that the second appellee uses juveniles in the distribution of drugs, and that the officer authorized to search decided to investigate the prosecution that he found the first appellee in the house of the one authorized to search him (the second appellee) and that he searched her for what he noticed of the bulge of her pocket and the emergence of some of the cellophane papers used to wrap drugs from this pocket, these circumstances are considered a strong presumption that the first appellee was hiding with her something useful in uncovering the truth, which allows the judicial officer to search her pursuant to Article 49 of the Code of Criminal Procedure, and therefore the seizure of drug rolls in her pocket is free from invalidity. Since the contested decision has violated this consideration, it has erred in the law, and this error has prevented it from examining the extent to which the second respondent is related to the drugs that were seized with the first respondent while she was at his home, which must be overturned and referred] Appeal No. 1908 of 39 S issued at the session of March 29, 1970 and published in the first part of the book of the Technical Office No. 21 page No. 478 rule No. 115

It ruled that: [When the accused was present in the house of the person authorized to search him upon the entry of the judicial police officer, when she saw him, she got up and took a hub that she was putting under her knee and carried it under her armpit, and when she knew him, she retreated and then threw it away and picked it up. These manifestations that appeared from the accused in front of the officer are considered a strong presumption that the accused was hiding with her something useful in revealing the truth. Therefore, the seizure of the navel, including the drug, shall be valid in accordance with Article 49 of the Criminal Procedure Law [Appeal No. 884 of 26 S issued at the session of November 5, 1956 and published in Part III of the Technical Office Letter No. 7 Page No. 1126 Rule No. 310

It ruled that: [If a warrant is issued in the search of an accused and then when it is executed, the accused officer and his wife are found sitting on a couch, and then he notes that the wife is holding her hand on something and he opens her hand and finds a piece of opium in it, then the marital bond between this wife and her husband against whom the warrant is issued does not prevent it from being applied to her as she is present with him at the time of the search.] Appeal No. 89 of 22 BC issued at the session of February 25, 1952 and published in the second part of the book of the Technical Office No. 3, page 728, rule No. 272.

the Criminal Procedure Law or there is sufficient evidence to charge him with the felony of acquiring the seized drug with the other accused in accordance with Articles 34/1 and 46/1 of the aforementioned law, or there is strong evidence that he is hiding with him something useful in uncovering the truth in accordance with Article 49 of the same law] [871] .

Despite this, there have been many rulings of the Court of Cassation that authorizing the judicial officer the right to search a person if there is strong evidence against him during the search of the house of the accused that he is hiding with him something useful in detecting the crime without a judicial order issued by those who have the authority to issue it or that a state of flagrante delicto is in violation of the provision of Article 41 of the 1971 Constitution, which is implicitly copied with the force of the Constitution itself since the date of entry into force of its provisions published in the Official Gazette in issue No. 36 bis A on 12/9/1971 without waiting for a minimum law to be issued and it is not permissible to rely on it in the arrest and search procedure since that date, it ruled that: [According to the text of Article 49 of the Code of Criminal Procedure, the judicial officer has the right to search a person if there is strong evidence against him during the search of the house of the accused that he hides with him something useful in detecting the crime without a judicial order issued by those who have the authority to issue it or that a state of flagrante delicto is in violation of the provision of Article 41 of the Constitution, which states: "Personal freedom is a natural right, which is It is inviolable. Except in the case of flagrante delicto, no one may be arrested, searched, imprisoned, have their freedom restricted in any way, or be prevented from moving except by an order necessitated by the need to investigate and maintain the security of society. This order shall be issued by the competent judge or the Public Prosecution in accordance with the provisions of the law."Article 49 of the Code of Criminal Procedure is implicitly superseded by the force of the Constitution itself since the date of entry into force of its provisions published in the Official Gazette No. 36 bis A on 12/9/1971 without waiting for a lower law to be issued, and it is not permissible to rely on it in the arrest and search procedure since that date, in accordance with the general rules in the arrangement of laws and the court's obligation to apply the legislation of His Highness the Constitution, if its text is workable in itself, and to waste other provisions that are conflicting with it or contrary to it, as they are considered superseded by the force of the Constitution] [872] .

([871]) Appeal No. 1287 of 46 S issued at the session of March 28, 1977 and published in the first part of the book of the Technical Office No. 28 page No. 416 rule No. 87.

([872]) Appeal No. 20054 of 74 S issued at the 7th session of May 2006 and published in the letter of the Technical Office No. 57, page No. 603, rule No. 64, Appeal No. 12655 of 69 S issued at the 10th session of March 2003 and published in the letter of the Technical Office No. 54, page No. 402, rule No. 43

The Court of Cassation also ruled that: [It is established in the jurisprudence of this court that the case of flagrante delicto requires the judicial officer to verify that the crime was witnessed by himself or perceived with a sense of his senses. The incident as reported by the contested judgment has no evidence that the crime was seen in one of the cases of flagrante delicto described exclusively in Article 30 of the Code of Criminal Procedure. It also lacked a statement that the arrest warrant The appellant and his search were issued by the competent authority, and the contested judgment relied in his judgment on the conviction of the appellant on the evidence derived from his false search for his procedure based on the provision of Article 49 of the Code of Criminal Procedure in the form of strong evidence against him , while he was in a house authorized to search him, provided that he hides with him something

However, the Court of Cassation, in a recent ruling, ruled that unless the Supreme Constitutional Court has yet issued a ruling on the constitutionality of Article 49 of the Code of Criminal Procedure, in cases where the ordinary judiciary considers that the law has been explicitly superseded by the Constitution, the judgments issued by the ordinary judiciary shall not be considered a final ruling on a constitutional issue, and this ruling may only be relatively authoritative against litigants and not all [873].

This means that the text of Article 49 of the Code of Criminal Procedure applies within the limits of the conditions prescribed by the text, which are the availability of the case of flagrante delicto, which allows the judicial officer to arrest and search those who are in the house of the person authorized to search it when the conditions of the case of flagrante delicto are met.

Second: It is not permissible to search except to search for things related to the crime for which evidence is being collected or to conduct an investigation

The principle is that it is not permissible to search except to search for objects related to the crime for which evidence is being collected or to conduct an investigation[874].

The search went beyond the purpose for which it was initiated and prolonged for another purpose, and the person who conducted the search sought to search for a crime unrelated to that search, resulting in its nullity. It is permissible to adhere to the nullity of the search for the first time before the Court of Cassation as long as the records of the judgment bear its elements and the facts that it obtained are evidence of the occurrence of the nullity, and the nullity of the search requires the exclusion of all evidence resulting from it, including the testimony of those who conducted it [875].

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useful in revealing the truth, although it was copied in Article 1/41 of the Constitution, he has violated the law, by not excluding the evidence derived from that false procedure, which prevented him from assessing what other evidence may exist in the case] Appeal No. 2605 of 62 s issued at the hearing of September 15, 1993 and published in the first part of a book Technical Office No. 44 Page No. 703 Rule No. 110.

([873]) Appeal No. 41799 of 85 S issued at the session of 25 November 2017 (unpublished), Appeal No. 17251 of 66 S issued at the session of 4 April 2009 (unpublished), Appeal No. 30342 of 70 S issued at the session of 28 April 2004 and published in the letter of the Technical Office No. 55 page No. 454 rule No. 61.

([874]) The first paragraph of Article 50 of Law No. 150 of 1950 - on the issuance of the Code of Criminal Procedure.

([875]) Appeal No. 4677 of 72 S issued at the session of November 23, 2009 and published in the book of the Technical Office No. 60 page No. 503 rule No. 65

In that judgment, the court ruled that: [Whereas it is clear from the minutes of the trial session that the appellant based his plea of nullity of his arrest and inspection on the lack of permission from the Public Prosecution and the absence of flagrante delicto and the fabrication of the incident officer for the crime of flagrante delicto to legitimize the inspection he conducted, which resulted in the seizure of the seized narcotic plant, and it was decided that it was not correct to raise a new basis for the nullity of the inspection for the first time before the Court of Cassation, as long as it is among the legal defenses mixed with reality unless it was raised before the trial court or the judgment codes were nominated for such nullity. If the facts stated in the judgment are indicative of the occurrence of nullity, it may be raised for the first time before the Court of Cassation, even if it was not pleaded before the trial court.

Whereas, and the contested judgment had occurred the fact of the lawsuit by saying "that on .... In the event of the passage of the captain/ .... He is accompanied by a secret police force in the Department of .... Witness of the Accused/ .... With a knife in his right hand, he was arrested, and by searching him, he was found with a pocket of trousers he wears on the left hand side on a box of Marlboro cigarettes with a cigarette inside it that turned out to be wrapped in a herbal plant suspected of having the narcotic banjo plant mixed with tobacco. "

The contested judgment then stated the proof of the incident against the appellant - in the advanced context - evidence derived from the statements of the officer of the incident and from the report of the chemical laboratories, and the judgment was then put forward by the appellant to invalidate his arrest and search by saying, "Whereas whenever the officer has arrested the accused in flagrante delicto by committing the crime of acquiring a white weapon “knife" without justification from personal or professional necessity, his search is correct because the search in this case is necessary not as a measure of investigation, but rather as a requirement of the arrest itself and is intended to protect the person who undertakes the arrest. Whenever the arrest is correct, the search is correct because the search in this case is necessary as a means of prevention and precaution that must be available to secure from the evil of the arrested person if he updates himself in order to regain his freedom by assault with what he may have with a weapon and the inspection of the requirements of the arrest entitles the search, whatever the reason or purpose of the arrest. Thus, the payment of the invalid arrest and search is based on an incorrect basis of reality and the law worthy of rejection."

When it has been established that, while it is settled law that the search conducted by a judicial arrest officer on a person who is arrested in one of the cases specified in Article 34 of the Criminal Procedures Law is a legitimate investigative measure necessary for inquiry under Article 46 of the same law—provisions included in the second chapter of the first book titled "On Gathering Evidence and Instituting Proceedings"—interpreting the mentioned search in this article as a "preventive search" deviates from the general scope indicated by its phrasing, restricting it without justification within the text's intent or its broad reference to cases permitting the legal arrest of the suspect.

However, as deduced from Article 50 of the Criminal Procedures Law—also located in the second chapter of the first book—and the report by the Senate Committee, and as consistently affirmed by the rulings of this court, searches are only permissible to locate items connected to the crime under investigation or being investigated. If, during a legitimate search, items appear that constitute a crime to possess or reveal the truth about another crime, a judicial officer may seize them, provided they emerge incidentally during the search without intentional effort to locate them.

This implies that all searches conducted by judicial officers, whether based on Articles 34 and 46 of the Criminal Procedures Law or pursuant to a prosecutor's authorization, or whether conducted as part of investigative measures required under Article 46 or as preventive searches necessitated by safety concerns, must adhere to the restrictions and boundaries outlined in Article 50. These boundaries ensure that the search is not misused beyond its intended purpose and remains confined to its objective.

The assertion that Article 46 grants judicial officers unfettered authority to search individuals simply because the arrest is lawful—irrespective of the reason or intent behind the arrest—misinterprets the broader legislative intent of Article 50, which restricts searches to uncover items specifically related to the crime under investigation or that come into view during a legitimate search. This ensures that the officer's actions remain within proper investigative boundaries and prevent abuse of authority.

Turning to the specifics of the case, as outlined in the appealed judgment, it records that the officer witnessed the defendant carrying a weapon (a knife), which was deemed a case of flagrante delicto. Consequently, the officer conducted a search of the defendant, discovering a pack of Marlboro cigarettes in the left pocket of the defendant's trousers. Inside the pack was a rolled cigarette containing what appeared to be a mix of tobacco and a suspected narcotic herb, later identified as cannabis. However, this court—Court of Cassation—finds that the narcotics discovery resulted from the officer’s deliberate search for drugs and was not incidental to a legitimate search focused on the offense of weapon possession.

The circumstances indicate that the officer’s search of the cigarette packet did not serve the stated purpose of locating weapons or items aiding escape, as such a packet is incapable of containing either. Therefore, the search exceeded its legitimate purpose and ventured into an unwarranted realm, namely seeking evidence of a different, unrelated offense, which contravenes the limitations set out in Article 50.

Given that the search conducted on the defendant was invalid, all evidence derived from it is nullified, including the officer's testimony. As the trial court’s conviction relied on such inadmissible evidence, the error in law renders the judgment void, necessitating its overturn.

Since the case lacks evidence other than the testimony of the officer who conducted the invalid search, the court must acquit the defendant in accordance with the first paragraph of Article 39 of the Law on Cases and Procedures of Appeal before the Court of Cassation, issued by Law No. 57 of 1959. Furthermore, the confiscation of the seized narcotic plant is ordered.

The Court of Cassation also ruled that: [Whereas the record of the contested judgment shows that the incident occurred that the captain/..... Head of Police Station Investigations..... that on the morning of..... In implementation of the Public Prosecution's permission to search the person and residence of the accused - the respondent - to seize the weapons and ammunition he possesses or possesses without a license, he went to the residence of the accused/..... Accompanied by a secret police force, the accused's residence was searched in the presence of his

The assessment of the purpose of the search is independent of the trial court and may be inferred from the circumstances of the case and the circumstances of the case without comment [876] .

wife for his absence at the time. He found in the accused's bedroom and below the bed mattress a paper roll containing the narcotic banjo plant. The judgment was based on the acceptance of the plea of nullity of the search and the acquittal of the appellee on the basis of his statement: "Since the court has surrounded the circumstances of the incident and familiarized it with sight and insight, and in the field of the plea presented by the accused to exceed the limits of the permission, it is a valid plea, as the judicial officer is restricted in the implementation of the permission to three things that do not have a fourth.

First: Adherence to the procedural rules governing assignment as an act of investigation, such as the necessity of the presence of the accused or his representative during the search.

Second: It is related to the compliance of the judicial officer with the procedures mentioned in the assignment decision related to the procedures he undertakes. It is not permissible for him to exceed these procedures, and this is what concerns us with regard to the incident of the lawsuit before the table of examination. It is not permissible for him to carry out other work that is not mentioned in the assignment decision, otherwise it will be invalid.

Third: The period of implementation of the permission.

While this was the case, the judicial police officer had conducted his secret investigations in its entirety and detail about the possession and possession of firearms and ammunition by the accused without a license, so he obtained permission from the Public Prosecution to search the person, the residence and the annexes of the accused's residence, so he conducted a search of that residence in the presence of the wife of the authorized person to search it. No weapons were found, but a paper roll was found whose nature was not revealed to contain weapons or ammunition and whose nature and contents were not known until after they were dispersed, and which turned out to contain the narcotic banjo plant. The seizure of the scroll by the judicial police officer in this way was an act that exceeded the limits of the permission, as it was not in a case of dressing and the circumstances of the permission did not require this order to be done, and therefore this procedure was invalid, and every evidence derived from it, including the seizure of the drug, is invalid. "

Whereas, it was decided that deciding whether the person who carried out this inspection adhered to its limit or arbitrarily exceeded its purpose in execution is the subject matter and not the law, and it was according to the trial court to question the validity of assigning the charge to the accused to rule his innocence as long as it surrounded the case out of sight and foresight and free of the defects of causation, and it was established that the court, after being aware of the circumstances of the case and the evidence of proof in it, had disclosed the nullity of the inspection to exceed The Judicial Control Officer found the limits of his permission after I realized that the officer did not find during the search of the accused's residence any weapons and ammunition - he is authorized to search for them to seize them - but rather found a paper roll whose nature was not revealed because it contained weapons or ammunition and did not know its nature and content only after it was broken, which turned out to contain the narcotic banjo plant. What the Judicial Control Officer did in this way of seizing the roll was an act that exceeded the limits of the permission, as he was not in a state of dress and the circumstances of the permission did not call for this order, and this was what he mentioned The judgment is valid and correct in reason and law and sufficient for the judiciary to invalidate the inspection and the innocence of the appellee and the validity of the law. The text of Article 50 of the Criminal Procedure Law and the report of the Senate Committee and the judiciary of this court stated that it is not permissible to search except for things related to the crime for which evidence is being collected or the investigation has taken place, and that if it appears during a true inspection that there are things whose possession is a crime or useful in revealing the truth in another crime, the judicial officer may seize them provided that they appear casually during the search and without any attempt to search for them. The contested judgment had established its judiciary that finding the drug was not accidental during a correct inspection within the limits of its purpose, but was the result of the officer's violation of the permission limits, and the assessment of the purpose of the search was independent of the trial court and it may detect it from the circumstances of the case and the evidence of the circumstances in which it is unpunched. What the appellant raises in her appeal has no place, as it is only an objective argument in the assessment of evidence]. Appeal No. 18868 for the year 73 S issued in the session of February 3, 2010 and published in the letter of the Technical Office No. 61, page No. 79, rule No. 12.

([876]) The Court of Cassation ruled that: [Based on the text of Article 50 of the Criminal Procedure Law, the report of the Senate Committee, and what the Court of Cassation has settled on, it is not permissible to search except for things related to the crime for which evidence is being collected or the investigation has taken place, and that if it appears during a true inspection that there are things whose possession is a crime or useful in revealing the truth in another crime, the judicial officer may seize them provided that they appear casually during the search and without seeking to search for them. Since the contested judgment has established its acquittal on the grounds that finding the drug was the result of the judicial officer's search for the crime of obtaining a drug and his appearance was not

Exception - Accidental appearance of objects the possession of which is an offence

As an exception to the above, if it appears accidentally during the search that there are things whose possession is a crime, or useful in revealing the truth in another crime, the judicial officer may seize them[877] .

For example, during a search of the house of the accused of theft, the judicial officer found pieces of hashish smelling inside a pack of cigarettes, which he estimated might contain part of the stolen amount [878] .

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accidental during a proper inspection within the limits of its purpose, which is to search for weapons or ammunition, and the assessment of the purpose of the search was independent of the trial court and it may detect it from the circumstances of the case and the evidence of the circumstances in it without a punisher, then what the appellant raises in her appeal has no place]. Appeal No. 581 for the year 41 issued in the session of November 15, 1971 and published in the third part of the technical office letter No. 22 page No. 656 rule No. 159

See: Appeal No. 49 of 31 S issued at the session of April 17, 1961 and published in the second part of the book of the Technical Office No. 12 page No. 457 rule No. 84.

([877]) The second paragraph of Article 50 of the Criminal Procedure Code.

([878]) Appeal No. 461 of 33 S issued on May 27, 1963 and published in the second part of the Technical Office's letter No. 14 page No. 460 rule No. 90

The Court of Cassation ruled that: [It is clear from the records of the contested judgment that the scroll containing the narcotic cannabis plant was seized accidentally in the pocket of the appellant's trousers during the search of his person in implementation of the permission issued to do so in search of the proceeds of theft under the compulsion of the person authorized to search for it, the judicial seizure officer is about a flagrant crime and it is his duty to seize what was revealed by this inspection. If the court was satisfied that the seizure of the drug with the appellant occurred during the search for the proceeds of theft and was not the result of the judicial seizure man's search for the crime of acquiring the drug and that the seizure order was an accident and a result of what is required by the search order for the stolen items, as his failure to seize it does not necessarily require sufficing with the search, as the seizure officer may deem it necessary to complete the search of the accused in search for the stolen items for which the search is authorized. [Appeal No. 25295 of 83 S issued on June 7, 2014 (unpublished)

It also ruled that: [Evidence from the records of the contested judgment that the pack of cigarettes Inside which the narcotics officer had accidentally seized the appellant's room during the search for the ancient artifacts in implementation of the permission issued to do so in search of the objects of the crime of possession and the acquisition of these pieces for the purpose of displaying and promoting the sale for which the inspection was authorized, the judicial seizure officer is about a flagrant crime and it is his duty to seize what was revealed by this inspection. If the court was satisfied that the seizure of the narcotics in the appellant's room occurred during the search for the ancient artifacts and was not the result of the judicial seizure man seeking to search for the crime of possession of narcotics, but rather an accident and as a result of what is required by the search order for the ancient artifacts because the seizure of those pieces on the image that was made does not necessarily require this amount of inspection because the seizure officer may see the need to complete the inspection of the appellant after the seizure of the ancient artifacts in search for evidence or other things related to the crime of possession and acquisition of the ancient artifacts for which the search is authorized, and it can not be taken that he exceeded in his inspection, which he stated has the said permission. Whereas, the assessment of the purpose of the search was entrusted to the trial court, which shall lower it as long as it deems appropriate, and it may infer it from the circumstances of the case and the evidence of the circumstances in it without comment] Appeal No. 13464 of 64 S issued at the hearing of May 26, 2003 (unpublished)

It ruled that: [It is clear from the judgment codes that the counterfeit securities were seized in a visible case and that he realized their imitation from the vanity of their colors and carried a single number. The court expressed its reassurance that their seizure occurred during the search for narcotic substances and was not the result of the arrestee's search for the crime of possessing counterfeit paper currency, and therefore what the appellant raises in this regard is not valid. [Appeal No. 22263 of 69 S issued on October 10, 2007 and published in the letter of the Technical Office No. 58, page No. 600, rule No. 115.

The drug was seized accidentally during the search for weapons and ammunition and as a result of the search for ammunition [879] .

As well as the seizure of forged documents by the accused during the search for ammunition [880] .

As well as the seizure of the drug by the accused who is authorized to search it for committing a bribery crime [881] .

([879]) Appeal No. 11754 of 61 s issued at the session of March 16, 1993 and published in the first part of the technical office book No. 44 page No. 275 rule No. 36, Appeal No. 1888 of 34 s issued at the session of May 11, 1965 and published in the second part of the technical office book No. 16 page No. 452 rule No. 91

In another judgment, the Court of Cassation ruled that: [It is established that the court, after it was afflicted with the circumstances of the case and the evidence in it, disclosed the nullity of the search because the judicial officer exceeded the limits of his permission after it was convinced that the officer did not find during the search of the accused's residence any weapons and ammunition - which he was authorized to search for to seize them - but rather found a paper roll whose nature was not revealed to contain weapons or ammunition and whose content was not known until after it was dispersed, which was found to contain the narcotic plant banjo, The seizure of the scroll by the judicial officer in this way was an act that exceeded the limits of the permission, as it was not in a state of flagrante delicto and the circumstances of the permission did not call for this order, and this was stated by the judgment is valid and correct in mind and law and sufficient for the judiciary to invalidate the search and acquittal of the respondent and coincided with the validity of the law, and the benefit of the text of Article 50 of the Code of Criminal Procedure and the report of the Senate Committee and what was established by the judiciary of this court that it is not permissible to search except for things related to the crime for which evidence is being collected or investigation, and that if it appears During a true inspection, the presence of things considered to be a crime or useful in revealing the truth in another crime, the judicial officer may seize them provided that they appear casually during the inspection and without any attempt to search for them, and the contested judgment has established its judiciary that finding the drug was not an accident during a correct inspection within the limits of its purpose, but was the result of the officer exceeding the permission limits] Appeal No. 18868 of 73 S issued at the session of 3 February 2010 and published in the Technical Office's letter No. 61 page 79 rule No. 12, and see: Appeal No. 4677 of 72 S issued at the session of 23 November 2009 and published in the Technical Office's letter No. 60 page 503 rule No. 65

It ruled that: [The text of Article 50 of the Criminal Procedure Law, the report of the Senate Committee, and the decision of the Court of Cassation that it is not permissible to search except for things related to the crime for which evidence is being collected or to conduct an investigation, and that if it appears during a proper inspection that there are things whose possession is a crime or useful in revealing the truth about another crime, the judicial officer may seize them provided that they appear casually during the search and without seeking to search for them. Since the contested judgment has established its acquittal on the grounds that finding the drug was the result of the judicial officer's search for the crime of obtaining a drug and his appearance was not accidental during a proper inspection within the limits of its purpose, which is to search for weapons or ammunition, and the assessment of the purpose of the search was independent of the trial court and it may detect it from the circumstances of the case and the evidence of the circumstances in it without a punisher, then what the appellant raises in her appeal has no place]. Appeal No. 581 of 41 s issued at the hearing of November 15, 1971 and published in the third part of the Technical Office's letter No. 22 page No. 656 rule No. 159.

([880]) Appeal No. 11018 for the year 73 S issued at the session of March 17, 2004 and published in the letter of the Technical Office No. 55 page No. 258 rule No. 35.

([881]) Appeal No. 585 of 49 S issued at the session of January 21, 1980 and published in the first part of the Technical Office's letter No. 31 page No. 120 rule No. 23

In another ruling, the Court of Cassation ruled that: [Article 50 of the Code of Criminal Procedure states: "It is not permissible to search except for things related to the crime for which evidence is being collected or to conduct an investigation. However, if it appears accidentally during the search that there are things the possession of which is a crime or serves to uncover the truth of another crime, the judicial officer may seize them. " Whereas it is clear from the records of the contested decision that the search order was executed by finding the ten-pound security subject to the bribe, but the judicial officers did not stop at this limit, but went beyond it to search the clothes of the contested until they found the seized drug, to the effect that their finding of the drug was after the end of the authorized search procedure and exhausted its purpose, so finding it was a permission born of an illegal procedure that was not ordered, and did not come by accident during the search for things related to the crime being deduced or investigated, which is an objective assessment that is not subjective, because it is decided that the decision whether

The validity of this seizure depends on the fact that the seized items appeared accidentally during the search related to the crime under investigation and without an attempt to search for them, and that finding them was not the result of arbitrariness in carrying out the search by searching for evidence of a crime other than what is under investigation [882].

The decision on whether the person who carried out this inspection has committed to its limit or exceeded its purpose arbitrarily in implementation is the subject matter and not the law. According to the trial court, it was to question the validity of attributing the charge to the accused in order to rule his innocence as long as it surrounded the case out of sight and foresight and free of the defects of causation [883].

6- The presence of the accused or his representative for the search

The search must take place in the presence of the accused or his representative whenever possible, otherwise it must be in the presence of two witnesses, and these witnesses shall, as far as possible, be from his adult relatives or from those living with him in the house or from neighbors, and this shall be recorded in the minutes [884].

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the person who carried out the search order was committed to its limit or exceeded its purpose is arbitrary in its implementation of the subject and not of the law]. Appeal No. 737 of 40 BC issued at the session of June 22, 1970 and published in the second part of the technical office letter No. 21 page No. 915 rule No. 216.

([882]) Appeal No. 1232 of 37 s issued at the session of October 16, 1967 and published in the third part of the technical office book No. 18 page No. 965 rule No. 195, Appeal No. 944 of 31 s issued at the session of October 15, 1962 and published in the third part of the technical office book No. 13 page No. 621 rule No. 155.

([883]) Appeal No. 18868 of 73 S issued in the session of February 3, 2010 and published in the letter of the Technical Office No. 61, page No. 79, rule No. 12

The Court of Cassation ruled that: [It is scheduled to estimate the purpose of the search from the independence of the trial court as it perceives from the circumstances of the case and the evidence of the circumstances in it without comment, and therefore if the contested judgment was certain of the nature, smallness and color of the seized scroll and the place of finding it, it does not indicate that it contains papers or documents on the basis of which a bribery or embezzlement accusation is based, which is the purpose for which the search order was issued to seize them and did not appear casually during the search - it was certain that the member of the administrative control when seizing the scroll and then unsealing it did not intend to search for papers or documents from what was mentioned, but rather intended to search for another crime unrelated to the two crimes for which the order was issued. It is not permissible to argue this before the Court of Cassation] Appeal No. 1235 of 45 BC issued at the session of November 24, 1975 and published in the first part of the Technical Office's letter No. 26, page No. 761, rule No. 168

It also ruled that: [If the court was not concerned with examining the circumstances and circumstances in which the seized drug was found to recall whether it appeared casually during the inspection related to the crime of bribery and without seeking to search for it, or that finding it was the result of arbitrariness in the implementation of the search warrant to seek to search for another crime unrelated to the original crime in which the investigation was carried out, its contested judgment, as it was limited in its response to the plea of nullity of the search - because there is no justification for continuing it after the amount of the bribe was seized with it - as stated in its blogs, is defective in deficiency] Appeal No. 208 of 45 s issued at the hearing of March 24, 1975 and published in the first part of the Technical Office's book No. 26 page No. 277 rule No. 64.

([884]) Article 51 of Law No. 150 of 1950 regarding the issuance of the Code of Criminal Procedure, and see: Appeal No. 966 of 29 S issued at the session of November 9, 1959 and published in Part III of the Technical Office's letter No. 10 page 857 Rule No. 183, Appeal No. 508 of 27 S issued at the session of October 7, 1957 and published in Part III of the Technical Office's letter No. 8 page 743 Rule No. 199, Appeal No. 1093 of 26 S issued at the session of December 3, 1956 and published in the third part of the Technical Office book No. 7 Page 1228 Rule No. 340, Appeal No. 824 of 25 S issued at the session of December 26, 1955 and published in the fourth part of the Technical Office book No. 6 Page 1527 Rule No. 449, Appeal No. 787 of 25 S issued at the session of December 12, 1955 and published in the fourth part of the Technical Office book No. 6 Page 1460 Rule No. 431, Appeal No. 1201 of 24

The obligation of the presence of the accused or his representative and the presence of two witnesses in the event of his absence for inspection is limited to the inspection carried out by the judicial police officer in the cases permitted by law for them. As for the inspection carried out on the basis of a mandate from the investigating authority, it is not required for the presence of any of the accused or his representative or the presence of witnesses. It is permissible for the judicial police officer to search the house of the accused by a mandate from the investigating authority in his absence and without the presence of two witnesses [885].

- Special provisions in inspecting the headquarters of some unions

The Lawyers Law required the inspection of the headquarters of the Bar Association, its subordinate syndicate and its subcommittees or the placing of seals on them to be with the knowledge of a member of the Public Prosecution. Therefore, it is not permissible for judicial officers to inspect the headquarters of the Bar Association, and the inspection must be carried out in the presence of the President of the Bar Association, the President of the Bar Association or its representative [886].

S issued at the session of April 26, 1955 and published in the third part of Technical Office Letter No. 6 Page No. 886 Rule No. 265, Appeal No. 618 of 23rd S issued at the session of May 18, 1953 and published in the third part of the Technical Office Letter No. 4 Page No. 837 Rule No. 305.

([885]) Appeal No. 12293 of 83 S issued at the 1st session of June 2014 (unpublished), Appeal No. 2153 of 80 S issued at the 4th session of May 2011 (unpublished), Appeal No. 2153 of 80 S issued at the 4th session of May 2011 (unpublished)

The Court of Cassation ruled that: [The field of application of Article 51 of the Criminal Procedure Law, on which the judgment was based in saying that this search is invalid, is when judicial officers enter homes in flagrante delicto, in accordance with Article 47 of the same law, which was ruled unconstitutional. Thus, the provision of Article 51 of the Criminal Procedure Law has become irrelevant. As for the search carried out by the judicial officer based on their mandate from the investigation authority, the provisions of Articles 92, 199, and 200 of the Criminal Procedure Law, which require that the search take place in the presence of the accused or his representative, if possible, apply to him. Whereas the foregoing, and it was established from the records of the judgment that the inspection that resulted in the seizure of the narcotic substance in the house of the first appellee, was carried out by the judicial officer based on his mandate from the Public Prosecution for this purpose, it is subject to the provision of Article 92 of the Code of Criminal Procedure and not Article 51 of it, as this last article was applicable in circumstances other than the assignment, the nullity of the judgment of this inspection has been aside from the correct application of the law, which would have authorized the annulment of the contested judgment] Appeal No. 14397 of 69 S issued at the session of November 12, 2007 and published in the Technical Office letter No. 58, page No. 687, rule No. 131, Appeal No. 4226 of 69 S issued at the session of January 6, 2003 and published in the Technical Office letter No. 54, page No. 80, rule No. 5, Appeal No. 5769 of 60 S issued at the session of March 11, 1999 and published in the first part of the Technical Office letter No. 50, page No. 159, rule No. 37, Appeal No. 19615 of 62 S issued at the session of September 26, 1999 1994 and published in Part I of Technical Office Letter No. 45 Page 795 Rule No. 124, Appeal No. 806 of 59 S issued at the hearing of 13 April 1989 and published in Part I of Technical Office Letter No. 40 Page 514 Rule No. 82, Appeal No. 230 of 57 S issued at the hearing of 22 April 1987 and published in Part I of Technical Office Letter No. 38 Page 632 Rule No. 107, Appeal No. 542 of 42 s issued at the session of 19 June 1972 and published in the second part of the Technical Office letter No. 23 page 936 rule No. 209, Appeal No. 194 of 34 s issued at the session of 18 May 1964 and published in the second part of the Technical Office letter No. 15 page 401 rule No. 78, Appeal No. 1994 of 32 s issued at the session of 10 December 1962 and published in the third part of the Technical Office letter No. 13 page 830 rule No. 200, Appeal No. 1308 of 30 s issued at the session of 15 November 1960 and published in the part The third book of the Technical Office No. 11 Page No. 796 Rule No. 153.

([886]) Article 224 of Law No. 17 of 1983 regarding the issuance of the Advocacy Law.

The Law on the Establishment of the Journalists Syndicate also prohibited inspecting the headquarters of the Journalists Syndicate and its subordinate syndicates or placing seals on them except with the knowledge of a member of the Public Prosecution and in the presence of the President of the Journalists Syndicate, the President of the subordinate syndicate, or their representative [887] .

The Political Parties Law prohibits the search of any of the party's headquarters in case of flagrante delicto except in the presence of one of the heads of the Public Prosecution. Otherwise, the search shall be considered null and void [888] .

7- Seizure procedures

The legislator intended the procedures for seizing seizures to preserve the evidence for fear of weakening it, and the law did not make its violation null and void, but left the matter to the reassurance of the trial court to the integrity of the evidence [889] .

([887]) Article 70 of Law No. 76 of 1970 regarding the establishment of the Journalists Syndicate.

([888]) Article 14 of Law No. 40 of 1977 on the System of Political Parties, as amended by Law No. 144 of 1980.

([889]) Appeal No. 5264 of 80 S issued at the session of 18 September 2011 and published in the Technical Office letter No. 62, page No. 232, rule No. 41, Appeal No. 12766 of 63 S issued at the session of 18 April 1995 and published in the first part of the Technical Office letter No. 46, page No. 752, rule No. 111, Appeal No. 3039 of 63 S issued at the session of 9 February 1995 and published in the first part of the Technical Office letter No. 46, page No. 336, rule No. 49, Appeal No. 12751 of 62 s issued at the session of June 2, 1994 and published in the first part of the Technical Office letter No. 45 page No. 688 rule No. 105, Appeal No. 22320 of 60 s issued at the session of September 15, 1992 and published in the first part of the Technical Office letter No. 43 page No. 714 rule No. 108, Appeal No. 696 of 58 s issued at the session of December 1, 1988 and published in the second part of the Technical Office letter No. 39 page No. 1159 rule No. 181, Appeal No. 594 of 58 s Issued at the hearing of April 17, 1988 and published in the first part of the Technical Office letter No. 39 page 627 rule No. 93, Appeal No. 5900 of 56 s issued at the hearing of February 11, 1987 and published in the first part of the Technical Office letter No. 38 page 246 rule No. 37, Appeal No. 4870 of 51 s issued at the hearing of March 9, 1982 and published in the first part of the Technical Office letter No. 33 page 310 rule No. 64, Appeal No. 726 of 48 s issued at the session of February 12, 1979 and published in the first part of the Technical Office letter No. 30 page No. 243 rule No. 49, Appeal No. 505 of 46 s issued at the session of October 17, 1976 and published in the first part of the Technical Office letter No. 27 page No. 738 rule No. 168, Appeal No. 1006 of 43 s issued at the session of December 9, 1973 and published in the third part of the Technical Office letter No. 24 page No. 1176 rule No. 240, Appeal No. 397 of 43 s issued at the session of 25 From June 1973 and published in the second part of the Technical Office letter No. 24 page No. 785 rule No. 164, Appeal No. 241 of 41 s issued in the session of 17 October 1971 and published in the third part of the Technical Office letter No. 22 page No. 539 rule No. 130, Appeal No. 2260 of 38 s issued in the session of 2 June 1969 and published in the second part of the Technical Office letter No. 20 page No. 795 rule No. 159, Appeal No. 3066 of 32 s issued at the session of February 4, 1963 and published in the first part of the Technical Office letter No. 14 page 88 rule No. 19, Appeal No. 1987 of 32 s issued at the session of December 10, 1962 and published in the third part of the Technical Office letter No. 13 page 827 rule No. 199, Appeal No. 647 of 29 s issued at the session of May 25, 1959 and published in the second part of the Technical Office letter No. 10 page 570 rule No. 127, Appeal No. 1407 of 25 s issued at the session of April 10, 1959 1956, published in the second part of Technical Office Letter No. 7, page No. 542, rule No. 158, Appeal No. 457 of 25 S issued at the hearing of June 13, 1955, published in the third part of Technical Office Letter No. 6, page No. 1117, rule No. 325, Appeal No. 1201 of 24 S issued at the hearing of April 26, 1955, published in the third part of Technical Office Letter No. 6, page No. 886, rule No. 265, Appeal No. 8 of 25 s issued at the hearing of March 14, 1955 and published in Part II of Technical Office Book No. 6 Page 644 Rule No. 210, Appeal No. 1963 of 24 s issued at the hearing of January 11, 1955 and published in Part II of Technical Office Book No. 6 Page 453 Rule No. 150, Appeal No. 1196 of 24 s issued at the hearing of December 15, 1954 and published in Part I of Technical Office Book No. 6 Page 315 Rule No. 104, Appeal No. 618 of 23 s issued at the hearing of May 18, 1953 and published in Part The third book of the Technical Office No. 4, page No. 837, rule No. 305.

a. Placing seals on places with traces or objects useful in revealing the truth

The judicial officer shall place seals on places with traces or objects useful in revealing the truth. They may establish guards on them, and they must notify the Public Prosecution immediately. The Public Prosecution shall, if it deems it necessary, submit the matter to the Magistrate Judge for approval [890] .

The owner of the real estate may file a grievance before the judge against the order issued by the partial judge with a petition submitted to the Public Prosecution, and it must submit the grievance to the judge immediately [891] .

The law did not require that the seal used in the seizure be for the judicial officer and the reference in the integrity of the proceedings of the trial court [892] .

([890]) Article 53 of the Criminal Procedure Code.

([891]) Article 54 of the Criminal Procedure Law.

([892]) Appeal No. 3473 of 62 S issued at the session of February 2, 1994 and published in the first part of the technical office book No. 45 page No. 181 rule No. 28, Appeal No. 289 of 49 S issued at the session of June 11, 1979 and published in the first part of the technical office book No. 30 page No. 679 rule No. 145, Appeal No. 226 of 43 S issued at the session of April 29, 1973 and published in the second part of the technical office book No. 24 page No. 559 rule No. 115

The Court of Cassation ruled that: [When the judgment responded to what was raised at the trial session regarding the difference in the weight of the seizure in the investigation of the prosecution, as evidenced by the analysis report that the seizure sent for analysis bears the name of the appellant and the seal of the prosecutor who made the seizure, this response is justified by which the judgment clarified the court's reassurance to the integrity of the seizure and the obituary is unfounded. [Appeal No. 241 of 41 S issued on October 17, 1971 and published in the third part of the Technical Office's letter No. 22, page No. 539, rule No. 130

It also ruled that: [When the contested judgment has proven that the seizure was deposited in the plucamine office to preserve it from tampering and that the law does not require that the seal used in the seizure be for the judicial officer and did not invalidate the violation of the seizure procedures when it is proven that the seizure is itself the seized seizure and the ring used in its seizure of a worker in the Narcotics Office, questioning the integrity of the seizure has no place. [Appeal No. 241 of 41 S issued on October 17, 1971 and published in the third part of the Technical Office's letter No. 22, page No. 539, rule No. 130

The Court of Cassation ruled that the judicial officer's seizure of seizures is subject to Article 56 A.C. It is equal for this to be original or assigned by the prosecution: [The appellant argued that the seizure procedures are null and void based on Article 55 of the Criminal Procedure Law for the failure of the police assistant to seize the seizures, and the judgment responded that the scope of application of this article is when the judicial police officer carries out an investigation that he is competent to conduct without going beyond that to the case in which he is assigned by the Public Prosecution to search in an investigation. This distinction mentioned by the judgment is not supported by the law because Article 55 came in Chapter Four of Chapter Two of the First Book of the Criminal Procedure Law, which regulates the entry and search of homes and the search of persons, and the meaning of these texts is to protect persons and preserve their freedoms and is not valid in jurisprudence to invalidate a procedure if taken by the police officer as an original and is valid if he is an agent.

There is no basis in the law for the distinction made by the judgment - in listing the duties of the judicial officer regarding the seizure of seizures and his non-observance of the provisions of Article 56 of the Code of Criminal Procedure if he is delegated by the Public Prosecution to inspect and subject to its provisions if he exacts as an original] Appeal No. 970 of 29 BC issued at the session of 12 October 1959 and published in the third part of the book of the Technical Office No. 10 page No. 778 rule No. 166.

b. Seizure of papers, weapons, and machines used in committing the crime or what resulted from its commission

Judicial officers may seize papers, weapons, and machines, and everything that may have been used in committing the crime, or resulted from committing it, or what the crime occurred to, and everything that is useful in revealing the truth [893].

Seizure of objects that may have been used in the commission of the crime or resulted from its commission or what the crime occurred to and everything that is useful in revealing the truth falls within the jurisdiction of the judicial police officers, provided that these objects are located in a place that the judicial police officers may enter [894].

The search prohibited by law to the judicial police officer is the search in which there is an attack on personal freedom or a violation of the inviolability of homes. As for the seizure of things that may have been used in the commission of the crime, or resulted from its commission, or what the crime was committed to, and everything that is useful in revealing the truth, it falls within the jurisdiction of these officers, provided that these things are located in a place that the judicial police officers may enter [895].

c. Presenting seizures to the accused

Seizures shall be presented to the accused, and he shall be asked to make his observations on them, and a report shall be signed by the accused, or in which he states his refusal to sign [896].

The purpose of writing a record of the search procedures is to record the observations that the accused may make on the seized objects, and the street did not arrange for the invalidity of the omission of editing this record [897].

d. Seizure of seizures

Items and papers that are seized shall be placed in a closed custody and attached whenever possible, and stamped on them and written on a tape inside the seal the date of the written record by adjusting those things, and the subject for which the seizure was made is indicated [898].

([893]) The first paragraph of Article 55 of the Criminal Procedure Code.

([894]) Appeal No. 39230 of 72 S issued at the 27th session of April 2009 and published in the Technical Office's letter No. 60, page No. 235, rule No. 31, Appeal No. 11772 of 67 S issued at the 17th session of May 1999 and published in the first part of the Technical Office's letter No. 50, page No. 300, rule No. 70.

([895]) Appeal No. 2032 of 29 S issued at the session of January 4, 1960 and published in the first part of the book of the Technical Office No. 11 page No. 11 rule No. 2, and in that judgment the Court of Cassation ruled that: [... If the judicial officer who seized the cloth in the accused's office was authorized to seize and bring it, if he saw this piece that he received the news of its use in committing the accident from the victim and seized it by guiding him with the intention of revealing the truth, he would not have violated the law]..

([896]) The second paragraph of Article 55 of the Criminal Procedure Code.

([897]) Appeal No. 441 of 27 S issued in the session of June 10, 1957 and published in the second part of the book of the Technical Office No. 8 page No. 633 rule No. 173.

([898]) Article 56 of the Criminal Procedure Law.

It is permitted, in the event that the person with whom the papers are seized has an urgent interest in them, to give him a copy of it certified by the judicial control officer [899].

The mere delay in writing the report of the seizure of the incident and taking the necessary measures to seize the seized forged documents does not indicate a certain meaning, and does not prevent the court from taking into account the evidence produced in it from the lawsuit [900].

e. Unsealing

It is not permissible to unseal the seals placed on the places or on the exhibits except in the presence of the accused or his agent and those with whom these things are seized or after inviting them to[901] do so.

And that it is proven that the court cleared the seizure containing the forged document in the presence of the accused and the defendant and that the minutes of the hearing are free of what the defendant claims that the defendant left the hearing before the seizure was cleared, so it is not acceptable to challenge the judgment that he did not see the forged document [902].

It is not permissible for the accused to appeal to the court not to inform it of the seized exhibits, as long as he has acknowledged the investigations into the crime he committed, and he has not asked the court to dismiss those exhibits [903].

f. Prohibiting the use or disclosure of any information on seizures to others

A penalty of imprisonment for a period not exceeding six months or a fine not exceeding five hundred Egyptian pounds, which is the penalty prescribed for the crime of disclosing secrets in Article 310 of the Penal Code, shall be imposed on anyone who has come to his knowledge due to

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([899]) Article 59 of the Criminal Procedure Code.

([900]) Appeal No. 5769 of 60 S issued at the session of March 11, 1999 and published in the first part of the Technical Office letter No. 50 page No. 159 rule No. 37, Appeal No. 256 of 66 S issued at the session of February 3, 1998 and published in the first part of the Technical Office letter No. 49 page No. 170 rule No. 25

The Court of Cassation ruled that: [If the court has verified from the investigation it conducted itself at the hearing, that the hedge seized by the appellant was not tampered with, and that it was it that the appellant was asked about the result of its calibration, then the goal pursued by the street from the procedures stipulated in Articles 56 and 57 of the Code of Criminal Procedure has been achieved, and the nullity of the procedures is not admissible due to the omission of the investigator to seize the hedge seized before him. [Appeal No. 1390 for the year 23 S issued at the session of November 24, 1953 and published in the first part of the book of the Technical Office No. 5 page No. 112 rule No. 38.

([901]) Article 57 of the Criminal Procedure Law.

([902]) Appeal No. 11772 of 67 s issued at the session of May 17, 1999 and published in the first part of the technical office book No. 50 page No. 300 rule No. 70, Appeal No. 4870 of 51 s issued at the session of March 9, 1982 and published in the first part of the technical office book No. 33 page No. 310 rule No. 64.

([903]) The Court of Cassation ruled that: [Since it is established by the judgment that the appellant has acknowledged the investigations by requesting the exact amount of the amount reported, and that he did not ask the court to dispose of the seized amount of money and audio recordings, he has no longer to complain about the judgment not being seen by the court or presented to it, and therefore what the appellant raises in this regard is invalid] Appeal No. 696 of 58 S issued at the session of December 1, 1988 and published in the second part of the book of the Technical Office No. 39 page No. 1159 rule No. 181.

the search of information about seized objects and papers, and has resulted in it to any person other than a person of capacity or benefited from it in any way [904].

Sixth: Preventive Inspection

Preventive search is the one that aims to strip the arrested person of the weapons or other tools he may use to evade arrest [905].

The basis for allowing preventive search is that it is a precautionary measure that warrants any member of the authority executing the search order to carry out in order to prevent the possibility that the accused may harm his person from something he is with or that such harm may be inflicted on others who initiate his arrest. Without the legal justification for arrest, the judicial officer may not carry out the search as a measure of investigation or as a preventive measure [906].

Preventive inspection is a precautionary administrative measure and should not be mixed with judicial inspection and does not require sufficient evidence or prior permission from the investigating authority and does not require the status of judicial control in those who conduct it. If this inspection results in evidence that reveals a crime punishable under the common law, it becomes the citation of this evidence as the fruit of a legitimate procedure in itself, and he did not commit any violation in order to obtain it[907].

It is decided that the person's acceptance of travel on the aircraft indicates his satisfaction in advance with the system set by the air ports to board aircraft in order to protect them and their passengers from incidents of terrorism and international hijacking. If this system requires the search of persons and luggage when boarding the aircraft, then taking and inspecting the passenger is all on the basis of his consent in advance and that the inspection in this regard is a precautionary administrative measure that should not be mixed with the judicial inspection and does not require sufficient evidence or previous permission from the investigating authority. If this inspection results in evidence that reveals a crime punishable under public law, it is correct to cite

([904]) Article 58 of the Criminal Procedure Code, and Article 310 of the Penal Code.

([905]) Article 350 of the Judicial Instructions of the Public Prosecution.

([906]) See Appeal No. 46823 of 85 S issued at the 9th session of December 2017 (unpublished), Appeal No. 6198 of 84 S issued at the 15th session of April 2017 (unpublished), Appeal No. 14778 of 84 S issued at the 4th session of December 2014 and published in the Technical Office's letter No. 65, page No. 910, rule No. 119, Appeal No. 4860 of 80 S issued at the 21st session of March 2011 (unpublished), Appeal No. 6205 of 79 S issued at the 17th session of March 2011 (unpublished), Appeal No. 37357 of 73 S issued at the 18th session of April 2010 (unpublished).

([907]) Appeal No. 3867 of 78 S issued at the hearing of 14 April 2016 (unpublished), Appeal No. 4662 of 80 S issued at the hearing of 19 November 2011 (unpublished).

this evidence as the fruit of a legitimate procedure in itself and no violation was committed in order to obtain it[908].

The defendant's acceptance of boarding the plane indicates his satisfaction in advance with the system set by the airports of the need for preventive inspection to protect them and their passengers from incidents of terrorism and kidnapping, and the validity of the resulting inspection results in the seizure of crimes [909].

Seventh: Satisfaction of the accused with the search

Every person has the right to the inviolability of his private life, and every person has certain things surrounded by secrecy, and out of respect for this, the Constitution guarantees to all people the inviolability of private life, as well as the inviolability of their homes as a repository of their secrets. They may not be entered, searched, monitored, or intercepted except by a reasoned judicial order, and in the cases and in the manner prescribed by law.

However, a person may waive this confidentiality through their free consent, in which case the nature of the search as a means of uncovering the truth within the realm of secrecy is lost. It then becomes a mere act of inspection, not subject to the safeguards established by law.

For consent to be valid, it must be explicit and unequivocal, free of ambiguity, untainted by coercion or any defect in consent. It is essential that the person giving consent is competent, acting freely, not subject to deception or fraud, and that the consent is given prior to the search with full knowledge of its circumstances. It is not required for the consent to be documented in writing by the person being searched; it is sufficient for the court to ascertain its validity from the facts and circumstances of the case[910].

([908]) Appeal No. 49769 of 85 S issued at the 28th session of February 2017 (unpublished), Appeal No. 13703 of 84 S issued at the 6th session of May 2015 and published in the book of the Technical Office No. 66 page No. 437 rule No. 61.

([909]) Article 351 bis of the Judicial Instructions of the Public Prosecution.

([910]) See Appeal No. 5883 of 86 S issued at the 22nd session of December 2016 and published in the letter of the Technical Office No. 67 page No. 922 rule No. 115, Appeal No. 9893 of 78 S issued at the 5th session of November 2009 and published in the letter of the Technical Office No. 60 page No. 404 rule No. 56, Appeal No. 17379 of 69 S issued at the 3rd session of November 2007 and published in the letter of the Technical Office No. 58 page No. 665 rule No. 128, Appeal No. 29049 of 63 s issued at the session of 14 November 1995 and published in the first part of the Technical Office letter No. 46 page 1180 rule No. 178, Appeal No. 2750 of 53 s issued at the session of 3 April 1984 and published in the first part of the Technical Office letter No. 35 page 378 rule No. 82, Appeal No. 2384 of 49 s issued at the session of 21 April 1980 and published in the first part of the Technical Office letter No. 31 page No. 534 rule No. 102, Appeal No. 225 of 36 s issued at the session of 20 From June 1966 and published in the second part of Technical Office Book No. 17 Page 827 Rule No. 156, Appeal No. 3066 of 32 S issued in the session of February 4, 1963 and published in the first part of Technical Office Book No. 14 Page 88 Rule No. 19, Appeal No. 435 of 20 S issued in the session of June 14, 1950 and published in the first part of Technical Office Book No. 1 Page 791 Rule No. 251, Appeal No. 137 of 16 S issued in the session of January 21, 1946 and published in Technical Office Book No. 7 P No. 1 Page 55 Rule No. 60, Appeal No. 2237 of 12 S issued in the session of December 28, 1942 and published in Technical Office Book No. 6 P No. 1 Page 70 Rule No. 49, Appeal No. 1895 of 7 Q issued in the session of October 25, 1937 and published in Technical Office Book No. 4 P No. 1 Page 88 Rule No. 103.

The Court of Cassation ruled that: [If the contested judgment concluded in a reasonable inference that the search of the second appellant's house was carried out only after her approval, an approval included in the declaration she signed with her thumbprint and seal print and signed by her secondary school student son, who knows reading and

Consent to a search does not necessarily have to be expressed through a positive act by the person being searched; rather, a passive act, such as not objecting to the search, is sufficient[911].

If the search pertains to a house or premises, consent must be given by the occupant of the house or premises, or by someone considered the occupant in their absence. Consent given by the wife is not valid if the husband is not absent from the house, as it would be issued by someone who does not have the authority to grant it[912].

A person may be searched with their consent, and a place may be searched with the consent of its occupant or their representative. A son who resides permanently with his father is considered an occupant of the place where they both reside[913].

Shops also enjoy a sanctity derived from their connection to their owner or their residence. This sanctity, and the care surrounding it as prescribed by the law, necessitate that entry into a shop requires authorization from the prosecution unless the crime is flagrantly evident or the concerned party has validly consented to the violation of its sanctity. Consent for a search must be given by the occupant of the place or someone deemed its occupant in their absence. The assessment of whether the person granting consent holds the status of an occupant is a factual matter exclusively determined by the trial judge, provided their judgment is based on sufficient justification[914].

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writing well and therefore knew the content of what he signed, and it was clear from the minutes of the trial session that neither of the appellants or their defender raised anything about the signature of the declaration as a result of coercion, the controversy in the validity of the appellant's declaration and her consent to the search is not acceptable] Appeal No. 1124 of 42 s issued at the hearing of 3 December 1972 and published in Part III of the Technical Office's book No. 23 page No. 1317 rule No. 296

The Court of Cassation also ruled that: [The false inspection is not correct to say that it occurred with the consent attributed to the son of the appellant as long as the judgment did not prove that this son has consented correctly issued with knowledge that those who searched had no status in it] Appeal No. 1101 of 21 BC issued at the session of December 25, 1951 and published in the first part of the book of the Technical Office No. 3 page No. 338 rule No. 130

It also ruled that: [The consent of the owner of the house to the entry of the policeman to search his house must be free before entry and after knowledge of the conditions of the search and that whoever wants to conduct it does not have it legally. [Appeal No. 892 of 9 S issued on 17 April 1939 and published in the letter of the Technical Office No. 4 P. Part No. 1 Page No. 530 Rule No. 377.

([911]) Appeal No. 9977 of 78 S issued at the 10th session of December 2015 and published in the letter of the Technical Office No. 66, page No. 853, rule No. 126.

([912]) Appeal No. 19039 for the year 73 S issued in the session of February 17, 2010 and published in the letter of the Technical Office No. 61, page No. 134, rule No. 19

The Court of Cassation also ruled: [The wife, while cohabiting with her husband and possessing the house in his absence, has the capacity to describe the fact that the house is her home, which entitles her to pay the nullity of the search, which harms her from its occurrence without her consent, and harms its result, as long as the husband has not consented to the search before it occurs]. Appeal No. 1117 of 24 S issued at the 22nd session of November 1954 and published in the first part of the Technical Office's letter No. 6, page No. 201, rule No. 67.

([913]) Article 345 of the Judicial Instructions of the Public Prosecution.

([914]) The Court of Cassation ruled that: [... The court, within the limits of its discretion, was satisfied that the brother of the appellee who is assigned to monitor the store for a temporary period in addition to his responsibility for his neighboring store is not considered a possessor, and the mere capacity of the brothers did not provide actual possession or judgment to the brother of the possessor and did not give him authority over his brother's store, and did not authorize him to authorize his entry to others, because the duty of control assigned to him is required to

An order issued by the officer to the defendant to open what they are carrying does not constitute the consent recognized by law, as it is essentially the defendant's compliance with the officer's command [915].

If the defendant was holding an item in their hand that the officer could not discern and only handed it over after being requested to do so by the officer—such a request being unlawful, marked by illegitimacy, and indicative of an abuse of authority—this act of handing over cannot be described as voluntary or done out of free will. Instead, it was compelled by the officer's unlawful action. Consequently, this surrender cannot be deemed valid, and any evidence derived from it is null and void[916].

And to go to uncover everything that obscures confidentiality so that the whole matter is within the reach of those in charge of the inspection, so that their task is to inform, not to inspect.

Consent must deal with allowing the seizure of things that are useful in revealing the truth, otherwise the consent is corrupt. However, if the consent is limited to mere perusal only, the judicial officer may, on his own initiative, seize what is considered a crime, based on the case of flagrante delicto.

Eighth: Search for mere suspicion

1- The prison officer searches any suspected person

Correctional center officers have the right to search any person suspected of possessing prohibited items inside the reform center, whether they are inmates or employees of the reform center or others. Correction center officers have the right to search any person, whether they are inmates or employees of the reform center or others, who is suspected of possessing prohibited items inside the reform center [917].

The Court of Cassation ruled that: [Whereas the appellant does not dispute that he was held in prison pending pre-trial detention, and therefore he is subject to the provisions of the prison regulations and system, and whereas Article 41 of Decree-Law No. 396 of 1956 regarding the organization of prisons stipulates that "the prison officer has the right to search any person suspected of possessing prohibited items inside the prison, whether he is a prisoner, prison

preserve the rights of his brother, the first of which is to preserve the inviolability of his store derived from the inviolability of his person, and if he violates this or authorizes others to enter, the permission will have been issued by those who do not have it when it was so, the contested judgment, as it ended in the invalidity of the inspection of the appellee's store due to the lack of consent to its inspection by the person concerned in it, and as a result of his innocence and the rejection of the civil lawsuit, is not contrary to the law...]. Appeal No. 1302 of 47 S issued on February 26, 1978 and published in the first part of the Technical Office's letter No. 29, page No. 185, rule No. 32.

([915]) Appeal No. 21782 of 74 BC issued at the session of 16 October 2012 and published in the letter of the Technical Office No. 63 page No. 511 rule No. 87.

([916]) Appeal No. 4089 of 72 S issued at the session of October 5, 2009 and published in the book of the Technical Office No. 60 page No. 335 rule No. 45.

([917]) Article 41 of the Law Regulating Correction and Community Rehabilitation Centers, as amended by Law No. 5 of 1972, and Article 349 of the Judicial Instructions of the Public Prosecution.

worker or others," which means that the inspection of the appellant was a use of a right granted by law merely for suspicion or suspicion of the appellant's possession of prohibited items, which was not wrongly extracted and what the appellant raises in this regard is inappropriate][918] .

The Court of Cassation also ruled that the text of Article 41 of the Prisons Regulation Law, which allows the search of any person suspected of possessing prohibited items inside the prison, does not differentiate between prisoners and others inside the prison [919].

The visitor may be prevented from visiting if he refuses to inspect, provided that this is recorded in the repair center accident record [920].

The inspection of visitors to the reform center is a precautionary administrative measure and is not an act of investigation in order to obtain evidence. Therefore, it is not necessary to have sufficient evidence or previous permission from the investigation authority, nor is it necessary to have judicial control of the person conducting it. The visitor's consent to the inspection or the issuance of a positive act from the person being searched is not required, but it is sufficient not to oppose the search - a negative act. The Court of Cassation ruled that: [The street granted the prison officer the right to search those suspected of possessing prohibited things inside the prison, whether they are prisoners, prison workers or others. This did not require the availability of arrest and search restrictions regulated by the Criminal Procedure Law, but it is sufficient for the prison officer to suspect that one of the mentioned in the text possesses prohibited things inside the prison until the right to search him is proven. Whereas, the intended suspicion in this regard is a state of mind that performs the same officer, with which it is correct in the mind to say that there is a suspicion of possession of prohibited things inside the prison, and the estimation of this is entrusted to the searcher under the supervision of the trial court. Whereas, and the incident was in the form proven by the contested judgment and included in the papers, it shows that the inspection conducted by the witness of the incident to the respondent was in search of what contraband he knew he possessed inside the prison of the department, as such inspection does not violate the law. As it is one of the duties dictated by the nature of its work in order to reveal what contested prohibitions are in the possession of the defendant for fear of using them to harm himself or others, and which the prison regulations prohibit it from achieving. As such, it is not

([918]) Appeal No. 20827 of 75S issued at the hearing of November 14, 2012, published in a technical office letter 63 page 696, rule No. 123.

([919]) It ruled that: [Since Article 41 of Decree-Law No. 396 of 1956 on the organization of prisons stipulates that "the prison officer has the right to search any person suspected of possessing prohibited objects inside the prison, whether prisoners, prison workers or others," and the appellant was uncontested that she was caught while inside the prison if she visited her brother, which allowed the prison officer who suspected her order to assign the second witness to search her in accordance with the aforementioned text, which does not differentiate between prisoners and others inside the prison, the outcome of the judgment of refusing to pay the invalidity of arrest and search is consistent and correct law and prevents the appellant in this regard is invalid] Appeal No. 10781 of 80 BC, issued at the 12th session of January 2011, published in a technical office letter No. 62, page 22, rule No. 5 , and see also: Appeal No. 286 of 60BC, issued at the 14th session of March 1991, published in a technical office book Part I, page 510, rule No. 74.

([920]) Article 38 of the bylaws of geographical reform centers, and Article 28 of the bylaws of military prisons.

considered an inspection in the sense intended by the street as an act of investigation aimed at obtaining evidence, and it is only possessed by the investigating authority or with its previous permission, but it is a precautionary administrative measure that should not be mixed with the judicial inspection, and it does not require sufficient evidence or previous permission from the investigating authority, and it is not necessary to be a judicial seizure for those who carry it out. If this inspection results in evidence that reveals a crime punishable under common law, it is correct to cite this evidence as the fruit of a legitimate procedure in itself, and no violation was committed in order to obtain it][921] .

It also ruled that: [It is decided that the inspection of visitors to prisons in accordance with the text of Article 41 of Decree-Law No. 396 of 1956 is a precautionary administrative measure that should not be confused with the judicial inspection and does not require sufficient evidence or previous permission from the investigating authority and does not require the capacity of judicial control. If this inspection results in evidence that reveals a crime punishable under the common law, then this evidence can be cited as the fruit of a legitimate procedure in itself and no violation was committed in order to obtain it. What the appellant raises about the individuality of the second witness to search despite the fact that she is not a judicial officer is inappropriate][922] .

It is sufficient for the validity of the inspection merely to suspect or doubt the possession of prohibited objects, so the Court of Cassation ruled that: [Since Article 41 of Decree-Law No. 396 of 1956 regarding the organization of prisons stipulates that: "The prison officer has the right to search any person suspected of possessing prohibited objects inside the prison, whether he is a prisoner, prison worker or others." In the light of this provision, the inspection of the appellant was a use of the right authorized by law for mere suspicion or suspicion of the appellant's possession of prohibited things, which the judgment did not err in extracting, and it was decided that the availability or non-availability of the case of flagrante delicto is one of the substantive issues that the trial court is independent of without penalty as long as it has established its judiciary on justifiable reasons, and what the judgment stated was evidence of the availability of the case of flagrante delicto in response to the appellant's plea of the non-availability of this case and the invalidity of arrest and search is sufficient and justifiable in responding to the plea and in accordance with the law. What the appellant raises in this regard is resolved into an objective controversy that may not be raised before the Court of Cassation][923] .

([921]) Appeal No. 50968 of 85 issued at the session of February 24, 2018, and see also: Appeal No. 9977 of 78 S issued at the session of December 10, 2015, published in the book of the Technical Office 66 page 853 Rule No. 126, Appeal No. 3066 of 32S, issued at the session of February 4, 1963, and published in the book of the Technical Office 14 Part I, page 88, rule No. 19.

([922]) Appeal No. 10781 of 80 S, issued at the session of January 12, 2011, published in the letter of the Technical Office No. 62, page 22, rule No. 5.

([923]) Appeal No. 43252 of 76 issued at the session of 5 June 2007, published in Technical Office Letter No. 56, page 440, rule No. 88 , see also: Appeal No. 23129 of 59S, issued at the session of 5 March 1990, published in Technical Office Letter No. 41, Part I, page 473, rule No. 79.

Suspicion or suspicion means that it is a state of mind by the same officer, with which it is correct in the mind to say that there is a suspicion of possession of prohibited things inside the correctional center, and the assessment of the availability of that state is entrusted to the inspector under the supervision of the trial court. In this regard, the Court of Cassation ruled that: [The street granted prison officers the right to search those suspected of possessing prohibited things inside the prison, whether they are prisoners, prison workers, or others. This did not require the availability of arrest and search restrictions regulated by the Criminal Procedure Code, but it is sufficient for the prison officer to suspect that one of the mentioned in the text possesses prohibited things inside the prison until it is proven that he has the right to search it. Whereas, the intended suspicion in this regard was a state of mind carried out by the same officer, it is correct in the mind to say that the suspicion of possession of prohibited things inside the prison and the estimate of this is entrusted to the searcher under the supervision of the trial court, and the contested judgment had proven that the search of the appellant took place inside the prison after the availability of signs that raised suspicion in the lieutenant colonel... The head of the investigation unit of the penal institution invited him to believe that the appellant, who is not imprisoned or prison staff, while entering to visit an inmate in the penal institution, heads directly to the visit area in an attempt to meet with those in charge of the guard so that she is not subject to inspection, so the corporal... assigned to inspect females under the supervision of the aforementioned officer and upon being assigned to do so, the conclusion of the contested judgment of refusing to pay the nullity of the arrest and search shall be consistent and correct with the law, and the contention of the appellant in this regard shall be invalid[1924] .

The purpose of the inspection is to prevent the leakage of any contraband into the reform centers in implementation of the provisions of the laws regulating them, and this purpose can only be verified by careful self-inspection of the person subjected to the inspection and in the manner that the person conducting it believes that it achieves its intended purpose. The Court of Cassation ruled: [It is decided that there is no place for what the appellant raises that the inspection in his case is intended to be limited to just feeling the clothes from the outside only. This is an allocation of the meaning of the inspection - stipulated in Article 41 of Decree-Law No. 396 of 1956 regarding the organization of prisons - without provision and does not comply with the basis of its authorization, which is to verify that no contraband has leaked into prisons in implementation of the provisions of the laws regulating prisons, which can only be verified by careful self-inspecting of the person subjected to the inspection and how the person conducting it believes that it achieves its intended purpose[1925] .

([924]) Appeal No. 32698 of 86S issued at the hearing of December 1, 2018 (unpublished), Appeal No. 11259 of 86 S issued at the hearing of March 28, 2017 (unpublished), Appeal No. 29534 of 76S issued at the hearing of July 30, 2007, published in Technical Office Letter No. 58, page 489, rule No. 99, see also: Appeal No. 11347 of 60 S issued at the hearing of December 11, 1991, published in Technical Office Letter No. 42, Part II, page 1328, rule No. 183.

([925]) Appeal No. 43252 of 76 S, issued at the session of June 5, 2007, and published in the letter of the Technical Office No. 58 page 440, rule No. 88.

Shall be punished by imprisonment for a period of no less than one month and a fine of no less than one thousand pounds and no more than five thousand pounds or one of these two penalties, without prejudice to any more severe penalty, every person who enters or attempts to enter the reform center or one of the camps of the reform centers in any way whatsoever, contrary to the laws and regulations governing the reform centers [926].

Within the framework of international conventions, the admission of visitors to the prison depends on their consent to be searched. The visitor may withdraw his consent at any time after having previously agreed to it. The prison administration may prevent the visitor from entering if he refuses to be searched.

Visitor search procedures are prohibited to be humiliating, and body cavity searches, or child searches, should be avoided [927].

The Nelson Mandela Rules required that searches be conducted in a manner respectful of the inherent human dignity and privacy of the searched person, taking into account proportionality, legality and necessity [928].

The Nelson Mandela Rules also prohibited the use of intrusive search procedures, including strip searches and body cavity searches, except in cases of extreme necessity, when necessary in a place of privacy, carried out by health care professionals or, at a minimum, by personnel appropriately trained by medical professionals in accordance with hygiene, health and safety standards, and of the same sex as the person being searched.

The prison administration must keep records in which searches are restricted, especially nude searches, body cavity searches, and cell searches, and the reasons for the search, the identity of the searchers, and any results of the search are also recorded [929].

It is clear from the above that the Egyptian legislator, as well as international conventions, is subject to the entry of visitors to the reform center for the visit by their consent to be inspected. However, the Egyptian legislator did not require the visitor's explicit consent to the inspection or the issuance of a positive act by him by agreeing to the inspection. Rather, he merely did not oppose the inspection.

The Egyptian legislator also did not require judicial control of the person conducting the inspection.

Whereas the Nelson Mandela Rules prohibited the use of intrusive search procedures, including the search of the naked body and the search of the body cavities, except in cases of extreme necessity, provided that such inspection is carried out - when necessary - in a place where there

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([926]) Article 92 of the Law Regulating Correction and Community Rehabilitation Centers, as amended by Law No. 106 of 2015.

([927]) Rule No. 60 of the Nelson Mandela Rules.

([928]) Rule No. 50 of the Nelson Mandela Rules.

([929]) Rules Nos. 51, 52 of the Nelson Mandela Rules.

is privacy, and that it is carried out by health care professionals or, as a minimum, by appropriately trained medical personnel in accordance with hygiene, health and safety standards, provided that they are of the same sex as the subject of the inspection, and the Nelson Mandela Rules oblige the prison administration to keep records in which the inspection procedures are restricted, and these records are also restricted by the reasons for conducting the inspection, the identity of those responsible for it, and any results of the inspection.

2- Inspection by judicial officers of customs officers of places, persons and means of transport within the scope of the customs department

Customs officials who have been given the status of judicial seizure by laws during the performance of their duties may inspect places, persons and means of transport within the customs service or within the limits of customs control if they have reasons to suspect goods and luggage or the suspicion of smuggling in those areas, without complying with the arrest and search restrictions stipulated in the Code of Criminal Procedure

Suspicion arises when the state of mind is available, with which it is true in the mind to say the suspicion of smuggling

The Customs Law No. 66 of 1963 limited the right to conduct this special type of inspection to customs officials, and then the rest of the judicial officers in their arrest and inspection within the customs department remain subject to the general provisions prescribed in this regard in the Constitution and the Code of Criminal Procedure [930].

It is noted that within the Customs Department, if the Customs Law promulgated by Law No. 66 of 1963 stipulates in its article 26 that: "The customs officer has the right to inspect places, goods and means of transport within the Customs Department and in places and warehouses subject to customs supervision, and the Customs may take the measures it deems necessary to prevent smuggling within the Customs Department."

It has been disclosed that the purpose of the inspection conducted by customs in accordance with the provisions of this article is to prevent smuggling within the customs service and that it is a special inspection that does not comply with the restrictions of arrest and inspection regulated by the provisions of the Code of Criminal Procedure and the requirement of Article 41 of the Constitution to obtain a judicial order in the absence of flagrante delicto. The legislator also did not require the capacity of judicial officer in the customs officer who conducts the inspection. Therefore, the legislator limited the right to conduct the inspection - within the customs service - to customs officers alone without authorizing it to those who assist them from other authorities, as stipulated in Article 29 of the same law, that: "Customs officers and those who assist them from other authorities have the right to hunt smuggled goods and they may follow this when they leave the customs control area. They also have the right to inspect and inspect convoys passing through

([930]) Article 347 of the Judicial Instructions of the Public Prosecution.

the desert when suspected of violating the provisions of the law, and in these cases they have the right to seize persons, goods and means of transport and lead them to the nearest customs branch." Whereas, the Customs Law has been devoid of a provision authorizing judicial officers other than customs officials to search within the customs department in the event of flagrante delicto and under the conditions stipulated in Article 46 of the Criminal Procedure Law except by a judicial order, and it was established that the person who searched the appellant and his car were officers other than customs officials without obtaining a judicial order and without a case of flagrante delicto, what happened to the appellant is an explicit arrest that is not justified and has no basis in law [931].

3- The right of representatives of the Ports and Lighthouses Authority to enter any ship or marine unit in Egyptian territorial waters or any ship or Egyptian marine unit abroad

The representatives of the Ports and Lighthouses Authority (Central Administration for Maritime Inspection and the experts regarding the implementation of the provisions of the Ship Safety Law promulgated by Law No. 232 of 1989 may have the right to enter any ship or marine unit in Egyptian territorial waters or any ship or Egyptian marine unit abroad to carry out inspections that fall within the limits of their competence, and they have the right to view all papers and documents related to the ship or marine unit [932].

Ninth: Administrative Inspection

1- Inmates of correctional centers or those detained pending cases are searched

The legislator obligated every inmate to be searched upon entering the reform center and to take what is found with him of contraband, money, or things of value.

If the inmate has financial obligations to the government pursuant to the sentence issued against them, these obligations shall be satisfied from any money they possess. If the available funds are insufficient to fulfill the obligations, and the inmate does not settle the remaining amount after being formally requested to do so, items of value in their possession shall be sold by the Public Prosecution to cover the government's claim from the proceeds of the sale. However, the sale must cease once an amount sufficient to settle the inmate's outstanding obligations has been raised.

([931]) Appeal No. 12457 of 72 S issued at the session of 19 April 2009 and published in the letter of the Technical Office No. 60 page No. 223 rule No. 29, Appeal No. 15766 of 76 S issued at the session of 12 February 2007 and published in the letter of the Technical Office No. 58 page No. 151 rule No. 31

The Court of Cassation also ruled that the establishment of the electronic portal in the customs hall is subject to the inspection stipulated in the Constitution and the Criminal Procedure Law, not to the administrative inspection of the customs authorities, and that the manifestations of confusion and confusion, no matter how much they are reported, do not provide a case of flagrante delicto and do not allow arrest and search without a judicial order. Appeal No. 30689 for the year 71 S issued at the hearing of October 13, 2008 and published in the Technical Office's letter No. 59 page No. 420 rule No. 77.

([932]) Article 19 of Law No. 232 of 1989 on the safety of ships, and Article 348 bis of the judicial instructions of the Public Prosecution.

If the amount collected from the inmate in cash, along with the proceeds from the sale as outlined above, falls short of the financial obligations owed to the government, a minimum amount of one pound shall be retained for the inmate's account in the safekeeping fund, while the remaining balance is allocated to the government's account.

If any amount remains after settling these obligations, the balance shall be credited to the inmate's account in the safekeeping fund to be used for their needs as required, unless it is delivered, upon their request, to a person of their choosing or to their guardian[933].

A judicial officer may search a person before placing them in a correctional facility in preparation for presenting them to the investigating authority. This is considered a precautionary measure to protect against any potential harm from the detained individual, should they be tempted to attempt escape and assault others with any weapons or similar items in their possession[934].

The search conducted by a correctional facility guard to uncover prohibited items that they have learned were obtained by the detainee while at court is a preventive administrative measure. It should not be confused with judicial searches. Such a search does not require sufficient evidence or prior authorization from the investigating authority, nor is the status of a judicial officer required for the person conducting it. Any evidence resulting from this legitimate procedure is considered admissible and can be used as testimony[935].

The Court of Cassation also ruled that: [Whereas, the contested judgment was submitted to the plea of nullity of the arrest and search due to the absence of a state of flagrante delicto and responded by saying: "Whereas it is about the plea of nullity of the arrest and search due to the absence of a state of flagrante delicto, when the incident was as described by the court The search conducted by the officer of the incident for the accused and he was imprisoned pending Case No. 920 of 2016 Misdemeanor of passage of the second section of Hurghada was in search of contents or weapons for fear of being used to harm himself or others before presenting it to the Public Prosecution. It is not a search in the sense that the street intended to be considered an act of investigation with the aim of obtaining evidence from the conviction and is only possessed by the investigating authority or with its permission, but it is a precautionary administrative measure and should not be mixed with the judicial search....Which was conducted by the Secretary of Police for the accused is a correct inspection. If it results in the seizure of the seized drug, it is the result of a legitimate procedure and the payment is misplaced and the court turns away from it." This, which was mentioned by the judgment, is sufficient in response to the plea of nullity of the search. It happens that the law is true that An inspection of the privacy of this lawsuit is necessary in order

(933) Article 9 of the Law Regulating Correction and Community Rehabilitation Centers, Article 5 of Presidential Decree No. 82 of 1984, Articles 5, 6, 8, 9 of the Internal Regulations of Geographical Reform Centers, Articles 5, 6, 7 of the Internal Regulations of Military Prisons, and Article 1045 of the written, financial and administrative instructions of the Public Prosecution.

(934) Article 351 of the Judicial Instructions of the Public Prosecution.

(935) Article 353 of the Judicial Instructions of the Public Prosecution.

to uncover the contraband that may be in his possession for fear of using it to harm himself or others, and which the prison regulations prohibit it from being carried out. It is an inspection in the sense that the street intended to be considered an act of investigation aimed at obtaining evidence that is only possessed by the investigating authority or with its prior permission, but it is a precautionary administrative measure that should not be mixed with the judicial inspection and does not require sufficient evidence or prior permission from the investigating authority and does not require the status of judicial seizure in those who carry it out. If this inspection results in evidence that reveals a crime punishable under public law, it is valid to cite this evidence as the fruit of a legitimate action in itself and no violation was committed in order to obtain it, and the appellant in this regard is[936] not valid.

On the other hand, the Nelson Mandela Rules required that the laws and regulations governing the procedures for inspecting prisoners and cells be consistent with the obligations imposed by international law and with international standards and norms.

The search shall be conducted in a manner respectful of the inherent human dignity and privacy of the person being searched, taking into account proportionality, legality and necessity [937].

It is prohibited to use a search to harass, intimidate, or unnecessarily intrude on a prisoner's privacy.

The Nelson Mandela Rules also prohibited the use of intrusive search procedures, including searches of the naked body and body cavities, except in cases of extreme necessity, provided that such search is carried out - when necessary - in a place of privacy, and that it is carried out by health care professionals or, as a minimum, by appropriately trained medical personnel in accordance with hygiene, health and safety standards, provided that they are of the same sex as the prisoner subject to the search.

Prison administrations should be encouraged to develop and use appropriate alternatives to that type of inspection.

The prison administration must keep records in which searches are restricted, especially nude searches, body cavity searches, and cell searches, and the reasons for the search, the identity of the searchers, and any results of the search are also recorded [938].

The Bangkok Rules required that effective measures be taken to ensure that the dignity of female prisoners is protected and respected during body searches, and that it is conducted only by female staff who have received appropriate training in the use of appropriate inspection methods in accordance with established procedures, provided that alternative screening methods are developed, such as the use of scanning devices to replace strip searches and invasive body

([936]) Appeal No. 13623 of 88 S issued on January 2, 2021 (unpublished).

([937]) Rule No. 50 of the Nelson Mandela Rules.

([938]) Rules Nos. 51, 52, 53 of the Nelson Mandela Rules.

searches, in order to avoid harmful psychological and potential physical effects of body searches [939].

Prison staff who inspect children, whether accompanying or visiting their imprisoned mothers, must also be competent, professional, courteous, respectful and respectful of their dignity [940].

In the event that the regulations in the prison do not allow the prisoner to keep the money, valuables, clothes, or other luggage he carries, all of this shall be placed in a safe custody upon entering the prison, provided that a list of such luggage is signed by the prisoner, and the prison doctor shall decide on any drugs or medicines that the prisoner carries upon entering the prison, in the face of the use of such drugs or drugs.

The prison administration is responsible for taking the necessary measures to maintain the inmate's belongings in good condition. Upon the inmate's release, all personal belongings are to be returned to them, except for money spent with permission, items sent outside the prison, or clothing that had to be destroyed for health reasons. The inmate must sign a receipt confirming the return of the money and belongings.

The same rules apply to money or goods sent to the prisoner from outside the prison [941].

For juveniles, each juvenile should have the right to possession of their personal belongings and to have adequate facilities for the safekeeping of such belongings. The personal belongings of the juvenile that he wishes not to keep, or that are confiscated from him, shall be kept in secure possession, and a list shall be prepared for them to be signed by the juvenile, and the necessary procedures shall be taken to keep them in good condition.

All such items and money shall be returned to the juvenile upon their release, with deductions made for any money authorized for their expenditure and any possessions authorized to be sent outside the institution.

If the juvenile receives or is found in possession of any medicines, it is left to the medical officer to decide on their use [942].

2- The search conducted by a paramedic on an unconscious person

The act of a paramedic searching the pockets of an unconscious person before transferring them to the hospital to gather, identify, and inventory the contents does not constitute a violation of the law. This procedure falls within the duties imposed on paramedics by the circumstances under which they perform their services. It does not infringe upon the freedom of the patient or injured

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([939]) Rules Nos. 19, 20 of the Bangkok Rules.

([940]) Rule No. 21 of the Bangkok Rules.

([941]) Rule No. 43 of the Standard Minimum Rules for the Treatment of Prisoners, and Rule No. 67 of the Nelson Mandela Rules.

([942]) Rule No. 35 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

individual being aided. As such, it does not qualify as a search in the investigative sense intended by the legislator[943].

3- Inspection of factory workers

It is considered an administrative inspection to inspect factory workers when they leave and the evidence of crimes found during it is available in the case of flagrante delicto and the flagrante delicto is based on legitimate work [944].

([943]) Article 354 of the Judicial Instructions of the Public Prosecution.

([944]) Article 355 of the Judicial Instructions of the Public Prosecution.

Part Three: Control and Accountability

Chapter 1: The Importance of Oversight and Accountability on Police Performance

In the previous chapters, we have dealt with the basic tasks of the police and the serious powers and authorities granted to them by law in order to perform those tasks in accordance with the laws and regulations.

In this chapter, we address issues related to oversight and legal accountability for police actions and practices.

Police accountability means that the police, as an institution and as individuals, are responsible for their actions before the state and the society they serve, and that they are able to clarify and justify the reasons and motives for their practices for each of their powers, whether at the stage of suspicion and arrest, in the stage of detention, interrogation and investigation, in places of detention and imprisonment, or when exercising their other powers of search and seizure, or surveillance, and most importantly, when exercising their powers to use force and fire.

In all situations, the police must in each case demonstrate that they have exercised their powers in accordance with the law, unless they must be held responsible and sanctioned.

It is natural that the means of control and accountability for the work and practices of the police service vary according to the organizational structure that governs the work of the police, and on the basis of which the tasks, responsibilities and levels of command and control are determined by different countries. Each country may organize the police service in a manner that suits it. Some countries choose an organizational structure for the police service that is highly centralized, and therefore all police work is linked to the senior leadership with the granting of discretionary authority to officials at the intermediate and lower levels, and others from countries choose an organizational structure that is decentralized and flexible, and gives discretionary powers and broad powers to officials at the intermediate and lower levels.

Whatever the organizational structure of the police force, it must be designed to perform its tasks and duties quickly and efficiently on the one hand, and allow for transparent and effective oversight and accountability of performance and daily practices on the other.

In order to ensure trust and credibility in the police service, the process of control and accountability must include all levels, from the command that gave the orders to the individuals who carried out the work in the field. The general rule is:

The police leadership - at all levels of the chain of command - must bear full responsibility for the completion of police tasks in accordance with international and national standards, and be held accountable for any abuse or abuse of its powers and authorities, and for every violation of the rights and freedoms of citizens guaranteed by national and international law.

There are many ways and means to carry out the process of control and accountability on the performance of the police service, and these methods are integrated and do not replace each other; there is internal control and accountability, which is done or must be done through the organizational and administrative structure of the police service itself. There is control and accountability that is supposed to be carried out by the state or the government, as the police force is an organ of the executive authority. Consequently, their performance must be subject to oversight and accountability by judicial and legislative bodies.

There is independent external oversight, which is supposed to be conducted by the public or national and international human rights organizations.

The following are the different methods related to oversight and accountability for police performance:

Chapter 2: Internal Control and Accountability (Disciplinary Responsibility of Police Officers and Personnel)

As we have indicated, the police are one of the main institutions of the state, bearing the responsibility for maintaining security and order, combating crime, serving society, and enforcing the law. This role requires that the police enjoy credibility and trust from society. Gaining credibility and trust, in turn, necessitates that police performance is consistently characterized by efficiency and integrity. Achieving this goal is not possible without an effective mechanism of oversight and accountability that ensures the police—as an institution and as individuals—are held accountable for any practices or actions that violate the law or infringe on human rights.

Internal oversight and accountability, i.e., oversight conducted within the police force as an institution, play a crucial and decisive role in uncovering violations that may be committed by some police officers. Internal or self-oversight is supposed to serve as the first line of defense for the credibility of the police and its members. Experience has shown that external oversight or accountability of police work is neither effective nor sufficient, as it can be easily undermined, unless there is a conviction and commitment from within the police force, supported by its leadership, to improve performance and address shortcomings.

The principles governing the internal accountability of police performance include:

- Police personnel, at all levels and ranks, must be accountable for all their actions to their superiors and leaders, and their behavior must align with national and international law, as well as the principles set forth in professional codes of ethics and discipline related to their work.
- Officers in positions of command and control are responsible for the performance of their subordinates through reporting, supervision, and disciplinary procedures. They are also accountable for any violations that occur within their scope of responsibility.

Internal oversight and accountability also involve, among other measures, providing avenues for complaints by those harmed by police practices and imposing disciplinary and criminal measures on those proven to have violated the law or misused their authority.

In general, police leadership must instill in its members a culture of respect for the law and the dignity and rights of the society they are part of. This can be achieved through a continuous emphasis on the following points:

- Law-abiding police practices are the only acceptable practices that truly represent the police as a service-oriented and law-guarding institution.
- Rejecting a culture of "the end justifies the means." The police, as a law enforcement and safeguarding institution, must achieve its legitimate objectives through lawful means. No means are lawful except those specified by the law or those that do not conflict with it in varying situations.
- Combating corruption in all its forms (corrupt practices include: violating the law, abusing authority, profiting from the position in any form, including bribery, etc.), and stressing that every form of corruption constitutes a crime punishable under the law of crimes and penalties. Furthermore, it represents unethical behavior unbefitting the dignity and reputation of police officers.

Unit 1: Duties and prohibitions on police officers and members

The key principles of accountability and discipline for police officers can be summarized as follows. The primary professional duties of police officers and personnel are as follows:

1. Respect for the Constitution and Law: Officers must adhere to the provisions of the Constitution and the law, respect human rights standards in the exercise of authority and use of force, and commit to principles of integrity, transparency, and procedural legality.
2. Protection of Rights and Freedoms: They must safeguard rights and freedoms, uphold human dignity, and respect the democratic values of society as enshrined in the Constitution and law.

3. Service Excellence: Officers should provide the highest level of security service, adopt innovative ideas to serve citizens, and engage with the community to address societal issues that may lead to crime.
4. Cultural Sensitivity: They must respect societal values, customs, traditions, cultures, and norms, ensuring equal provision of security services to all without discrimination.
5. Rights of Suspects and Accused Persons: Officers must guarantee constitutional and legal rights and adhere to human rights standards in their interactions with suspects and individuals accused of crimes.
6. Performance of Duties: Officers are required to carry out their assigned duties with precision and integrity, dedicating official work hours to fulfilling job responsibilities. They may also be assigned additional tasks outside of official work hours if the needs of the job require it.
7. Cooperation: They should cooperate with colleagues to ensure the smooth execution of urgent duties necessary for maintaining workflow and delivering public services.
8. Compliance with Orders: Officers must accurately and faithfully execute orders issued to them within the limits of applicable laws, regulations, and systems. Every superior is accountable for the orders they issue and responsible for the proper functioning of work within their jurisdiction.
9. Preserving the Dignity of the Profession: Officers should conduct themselves in a manner that reflects the dignity of their role and aligns with the respect owed to it, as defined by police regulations and prevailing norms.
10. Residence Requirement: Officers must reside in the area where their workplace is located and may not live far from it unless necessary and approved by their superior.
11. Self-Control and Balanced Conduct: Officers must maintain self-control in their interactions with citizens and behave in a balanced manner appropriate to the nature of different security situations.

The Minister of Interior, with the approval of the Supreme Police Council, may define additional obligations and duties that officers are required to adhere to and uphold[945].

The prohibited acts for police officers and personnel are as follows:

1. Disclosing, without written permission from the Minister of Interior, information or clarifications about matters that are confidential by nature or as per written instructions issued by the competent authority, or divulging information related to incidents learned in the course of duty, or publishing documents, records, or their copies related to police activities or methods of maintaining state security. This obligation remains binding even

(945) Articles 41, 77 of the Police Authority Law.

after service ends.
Violations of the prohibition stipulated in the preceding paragraph, without prejudice to any more severe penalties prescribed by other laws, are punishable by imprisonment and a fine ranging from ten thousand to twenty thousand Egyptian pounds, along with the confiscation of items involved in the crime.

2. Making any statements or declarations about their job functions through any media, publication, or public access methods unless expressly authorized in writing by the entity specified by the Minister of Interior.
3. Retaining, handling, or removing any work-related document from designated files in unauthorized circumstances.
4. Violating public and private security procedures as determined by the Minister of Interior.
5. Seeking or accepting mediation in matters related to their duties or mediating for another officer or employee in such matters.
6. Misusing authority by mistreating citizens in a manner that undermines their dignity or the dignity of the police institution, violating rights and freedoms guaranteed by the constitution and law, or breaching duties, instructions, or circulars issued by the ministry.
7. Joining any political, union, party-based, religious, or sectarian entities, or engaging in public work during their service, or showing political bias towards any side or entity. However, this does not preclude their right to join professional unions related to academic qualifications, subject to relevant regulations.
8. Establishing or contributing to the establishment of any union, union committee, or federation of unions.
9. Establishing or joining an association, union, or any other unlicensed entity or one that conflicts with their professional obligations.
10. Resorting to the use of force or firearms in circumstances not authorized by law[946].

It is not permitted for the officer to combine his job with any other work he performs in person or through mediation, if this would harm the performance of the duties of the job or is inconsistent with its requirements. It is not permitted for him to perform work for others with pay or remuneration even outside official working hours. However, the Minister of Interior may, after taking the opinion of the Supreme Police Council, authorize the officer to perform a certain work outside official working hours.

It is also permitted for the officer to undertake with pay or with remuneration the acts of guardianship, trusteeship, or proxy for absentees or judicial assistance if the person covered by

(946) Articles 42, 77 of the Police Authority Law.

guardianship, trusteeship, absentee, or judicial assistant is appointed to whom they are related by kinship or affinity up to the fourth degree.

It is also permissible for the officer to take over, with a salary or with a reward, the custody of the property in which he is a partner, an interestholder, or the property of those with whom he is related by kinship or affinity up to the fourth degree, all provided that he notifies the main body of this and the notification is kept in his service file [947].

Police officers and personnel are strictly prohibited, either directly or indirectly, from the following:

1. Purchasing real estate or movable property offered for sale by judicial or administrative authorities if it relates to their job duties or if the sale occurs within the area where they perform their duties.
2. Engaging in any commercial activities, particularly having any interest in businesses, contracts, or tenders within the area where they perform their duties or related to their responsibilities.
3. Renting land or real estate for exploitation within the area of their duties if such exploitation is connected to their work.
4. Participating in the establishment of companies, accepting board memberships, or performing any work in them unless representing the government, public entities, public institutions, or local administrative units, or with prior authorization from the Minister of Interior.
5. Speculating on stock exchanges.
6. Gambling in clubs or public establishments[948].

Police officers and personnel must adhere to the following current regulations and are prohibited from:

1. Violating financial rules and provisions stipulated in applicable laws and regulations.
2. Breaching laws and regulations governing tenders, auctions, stores, purchases, and all financial rules.
3. Violating provisions related to oversight and control of budget execution.
4. Negligence or failure that results in the loss of financial rights of the state, public entities, or organizations under the supervision of the Central Auditing Organization, or undermines any of their financial interests, or directly leads to such outcomes.

(947) Article 43 of the Police Authority Law.

(948) Articles 44, 77 of the Police Authority Law.

5. Failing to respond to the inquiries or correspondence of the Central Auditing Organization or delaying responses. A reply aimed at procrastination or evasion is considered equivalent to not responding.
6. Failing to provide the Central Auditing Organization, without a valid excuse, with the accounts and supporting documents within the stipulated deadlines, or failing to supply any requested papers, documents, or materials that the organization is entitled to examine, monitor, or review under its establishment law[949].

The Minister of Interior, after consulting the Supreme Council of Police, shall establish a system for oversight, inspection, follow-up, performance evaluation, and achievement of goals based on specific criteria, applicable to all police officers and personnel.

The Supreme Administrative Court ruled that: [The legislator specified in the Police Authority Law the job duties that a police officer must adhere to in order to achieve the public interest. These duties came from the generality and comprehensiveness so that all officers adhere to them, regardless of the nature of their work or the location of each of them. Every breach by the officer of his legally prescribed job duties or violation thereof requires his disciplinary punishment by imposing the appropriate penalty on him in accordance with the violation attributed to him, which is proven against him. Among these penalties is the penalty of deduction from salary for a period not exceeding two months per year. The legislator stipulated that the penalty may be imposed on the violating officer to investigate him in writing first and achieve defenses in what is attributed to him. If violations of the right of disciplinary punishment are proven, provided that the decision issued for the penalty is a reasoned decision][950] .

The Supreme Administrative Court also ruled that the job of the police officer has certain special qualities without the other functions, which are honesty and integrity at work. It is one of the things that may not be tolerated or neglected and requires the culpability of violators with a kind of severity and firmness in order to preserve the prestige of the police authority and the public interest [951].

With regard to the ban on the police officers' beard, the Supreme Administrative Court ruled that: [It is not permissible for an officer to grow a beard, as this is contrary to regular life, and in accordance with the instructions issued by the Ministry of Interior - the officer grows a beard in violation of the rules and instructions of the police facility to which he voluntarily and voluntarily consented to be bound by all its controls, as a facility of a special nature, obliges everyone who belongs to it to wear a special uniform and a decent appearance governed by the provisions of this facility

(949) Articles No. 46, 77 of the Police Authority Law.
(950) Supreme Administrative Court (Seventh Circuit Subject), Appeal No. 5621 of 58 session of March 25, 2018 (unpublished).
(951) Supreme Administrative Court (Seventh Circuit Subject), Appeal No. 5621 of 58 session of March 25, 2018 (unpublished).

The constitutional legislator has added a fence of protection to personal freedom, and to public rights and freedoms, but on the other hand, if the lack of commitment to a certain uniform is one of the manifestations of personal freedom, this freedom is not incompatible with the commitment of some groups of workers and in a circle by itself to the restrictions placed by the administrative authority or the facility on the costumes worn by some people in their position from this circle to have their own identity, so that their robes do not mix with others, but rather detach in their appearance from others so that their uniforms are homogeneous and appropriate to them and identify with them and facilitate the images of dealing with them, so that their circle is not looting others who break into it in order to confuse the matter of those who belong to it rightly and truthfully, as is the case with the armed forces, police, hospitals, etc., and in order to do so, those who engage in such bodies must abide by what is imposed by the costumes on those who belong to them within the scope of the circle that[952] it determines.

The Supreme Administrative Court ruled that an officer who refuses to conduct the necessary medical tests at the Police Hospital pursuant to the periodic letter according to which the officer is obligated to respond to any instructions or orders regarding the request for a medical or laboratory examination in the specified medical authorities approved by the General Directorate of Medical Services at the Ministry of Interior is considered to have committed an explicit violation of the instructions that require his disciplinary sanction[953].

The Supreme Administrative Court ruled on the right of the officer to express his opinion that it is not a disciplinary offense for the officer to say that he does not represent the political system, because he swore to respect the constitution and the law and preserve the republican system, and therefore he represents the constitution and the law, and does not represent the authority that must abide by the constitution: [The police officer, like any citizen, has the right to express his opinion and publish it verbally, in writing, photography or other means of expression within the limits of the law, not about the secrets of his work, its necessity, nature or content, but as a creator or litigant, As a citizen who makes his contribution to public concern or affairs, as long as his implementation of any of these constitutional rights or licenses is free from offense to the body to which he belongs which is the police body), or the minister who is in charge of it, and from compromising the prestige of the system or dropping on it - the instructions issued by the Ministry of Interior in this regard do not justify that the constitutional foundations that guaranteed freedom of expression, or the rules and legal provisions contained in the Police Authority Law, which enumerated the prohibitions, and does not include a ban on the freedom of the officer to express his opinion in another field His police work, whether in the field of artistic, literary or scientific creativity, as well as his right to litigation, there is no reproach on the officer if he does these freedoms, and he answered the request of the press to hold a dialogue with him about these

(952) Appeal No. 20546 of 59th session of January 11, 2014 AD 59, p. 315, rule 27.

(953) Appeal No. 7705 of 53rd session of September 27, 2009 AD 54, p. 746, rule 90.

matters - the stable rule in human thought and divine laws is that the origin in things is permissible, and it is prohibited only by text

It is not considered a disciplinary offense for the officer to say that he does not represent the political system, because he swore to respect the constitution and the law and preserve the republican system, and therefore he represents the constitution and the law, and does not represent the authority that must abide by the constitution; this statement is a repetition of an asset of legal principles that the officer must adhere to and follow its guidance[954].

([954]) Supreme Administrative Court, Appeal No. 9585 of 56 BC, session of January 28, 2012 AD 57, p. 469, rule 57. In that ruling, the court ruled that: [... Whereas, it is established from the papers that the appellant obtained a bachelor's degree in the Department of Journalism from Cairo University in 1988, and joined the Police College - Department of Specialized Officers, and graduated in 1989 with the rank of first lieutenant, and graduated in police positions until he occupied the rank of lieutenant colonel, and obtained a doctorate in media and communication from the Faculty of Arts at Alexandria University, and its topic: (The absolute freedom of the right to expression), which was honored because of him in 2005, and in its issue issued on 18/5/2009, the Voice of the Nation newspaper conducted a press interview with him, the main title of which was: "For the first time among the ranks of the opponents in Egypt, a police officer is still on duty, Lieutenant Colonel... In his 1997 novel The Homestead, which criticized the succession of the president's son, the Minister of Interior (the fear counsellor) describes: Was it your father's homestead? There is nothing in the Police Law that prevents the officer from freedom of expression", and after these titles or with them, the editor of this meeting introduced the appellant and explained his employment history, and then went to what he wanted from his dialogue that he signed in his hand a novel written by him that was not put on the market, which is the novel (Ezbet), which dealt with a political projection on the regime in Egypt and inheritance, and the novel ends with the outbreak of a civil war between the ruling regime and the people, and the editor added in his introduction to the dialogue that the name of the officer (Appellant) hesitated in the media recently when he took a step that surprised the Ministry of the Interior when he filed a lawsuit before the administrative judiciary against the Ministry of the Interior He argued the unconstitutionality of the article that prevents police officers from casting their votes in the general elections, and then the dialogue came as follows:

By asking the appellant if he is opposed to the regime despite the sensitivity of his job as a police officer? He replied: "My constitutional rights as a citizen allow me the right to express, believe and think, and there is nothing in the Police Law, especially Article (42), with all its prohibitions, that prevents the officer from freedom to express his opinions and ideas even if he disagrees with the regime, as long as it does not represent a departure from the constitution and the law, and does not relate to facts specific to the work of his job, and indeed my ideas differ with many of the practices of the regime."

Asked: "So you are an officer opposed to the authority you represent?" He replied: "The officer swears on the day of graduation to respect the constitution and the law, and to preserve the republican system, and therefore I do not represent the authority, but I represent the constitution and the law, and whoever breaks the constitution thus takes legitimacy off the shoulders of the authority he represents."

By asking him: "What about your novel (Al- 'Izba) and its political overthrow and sharp attack on the regime?" He replied: The novel tells the story of a young man who is linked to a girl from the world of jinn and goes with her on a journey to her world, and is surprised by a tyrant ruler and a society that has been divided into categories: the devils, who are corrupt tyrants, the righteous, who are advocates of reform, justice and equality, and the oppressors, who are extremists intellectually and practically, and the snakes, who are the silent oppressed majority. The novel has been exposed to the intertwined relations between these groups, and the popular revolution that will lead to it is faced with bloody repression, and the novel ends with an open end to all possibilities. "

And by asking him why he named the Minister of the Interior of the tyrant "Fear Advisor" in the novel? He replied: "My novel cannot be interpreted, but I leave this to critics and readers, and I offer that explanation from the heart of the novel itself, as the fear counselor says that he realized from the beginning that the security sought by the ruler is only his own security and not the security of the people, so he completely strengthened his determination to own the corner of that mighty through the obsession with security, so I opened the name of security that can reach and tour this country long and wide, controlling worshipers, spreading fear or granting security."

And by asking him how he addresses inheritance in his novel? He replied: "The pivotal event in the novel is the release of an unknown voice throughout the country in which the novel takes place. This voice, which is repeated throughout the events of the novel, repeats one of four words: (She was your father's manor), and because of this voice, the ruling will not be inherited by the son of the ruler."

And he asked him, "What about reality? Are you against inheritance? He replied: "The republican system that I swore to keep on my graduation day in the police college does not recognize inheritance, only the monarchies recognize inheritance, make it legitimate, and therefore I defend the republican system."

And by asking him about his opinion directly as a police officer in the political system that governs Egypt? He replied: “This country will only progress through liberal rule with its political side represented by democracy, its economic side represented by the market economy, and its social side represented by faith in human freedom, and liberal rule will only succeed by applying these aspects together, and unfortunately we are still far from liberal rule in its true sense.”

And by asking him about the solution from his point of view? He replied: “The solution lies in the peaceful exchange of power by setting a time limit (one or two periods at most) for whoever holds any government position.”

And by asking him what he would say to the Minister of Interior if he sat with him? He replied: "With respect, I will tell His Excellency that it is time for police officers to obtain their right to vote, which they have been deprived of exercising for 24 years. He added that he filed case No. 10215 of 63 BC administratively demanding that it be referred to the Supreme Constitutional Court to rule on the appeal against the unconstitutionality of Article 1 of the Law on the Exercise of Political Rights, which prevents officers from voting in elections."

By asking him: How do you demand that the police officers vote in the elections and they are already in control of the boxes, and they forge them and they are not authorized to do so, so what if they have the opportunity and the law? He replied: "Challenging the integrity of police officers is a matter that undermines the function of the security apparatus in society as a whole, and it is my assessment that the reason responsible for undermining the security apparatus is the constitution and law in non-democratic countries in return for their compliance with orders and instructions is to deprive the officers of those apparatuses of the electoral vote, which leads to their isolation and marginalization, and undermines their ability to choose and influence the present and future of society, and thus these devices become in the hands of power, and isolate away from the ranks of the people...".

By asking him whether he thinks what he is asking for is realistic? He replied: "The participation of police officers in electoral voting has long been taken for granted in democratic countries, and even the recent elections in the West Bank, Gaza Strip and Iraq, which are neighboring Arab countries, have guaranteed the police officer the right to vote."

By asking him: How can expanding the base of political participation so that it includes all groups represent a bulwark of safety for the stability of any society? “Most psychological and behavioral studies prove that the isolation and marginalization of any group in any society leads it either to a coup d 'état by opposing it secretly or openly, or to colluding with the authority to obtain the greatest amount of stolen influence,” he replied.

Whereas, it is clear from the advanced review of the press dialogue held with the appellant that he was free from delving into the work, responsibilities and secrets of the police force, but rather within the framework of the controversy raised by the novel "Ezbet" written by the aforementioned, as well as what drew the attention of the press from his (a police officer) filing a lawsuit in which both the President of the Republic and the Minister of Interior requested to approve the right of police officers to vote in the elections, and on the other hand, his answers to the questions asked to him, even if you turn to his novel "Ezbet" with its symbols and insinuations, none of these answers described the Minister of Interior as "fear counselor", or the son of the president disputed the inheritance of the government by saying that "she was your father's manor?"Rather, all this came in the course of dealing with the events and facts of the novel, and these and those came by the editor with titles for dialogue, extracted by extracting them, and extracted them from the appellant's answers, supplying them (titles) out of context; as the appellant was interviewed not only as a police officer, but before that as a writer, thinker and author of a novel, and then he entered the door of the judiciary to request the ruling to enable police officers to vote in the elections and cancel the danger presented to them.

If freedom of opinion is guaranteed to every human being to express his opinion and publish it verbally, in writing, in photography, or by other means of expression within the limits of the law, this is a constitutional principle that successive Egyptian constitutions have been keen to preserve and guarantee, as well as to ensure the freedom of scientific research and literary, artistic, and cultural creativity, and to provide the necessary means of encouragement to achieve this, and litigation is a guaranteed right, as every human being has recourse to his natural judge, and if these principles have become constitutional axioms, and the appellant in the field of scientific research has taken steps towards obtaining a doctorate degree in literature, The Ministry of Interior honored him for this by granting him a certificate of appreciation in 2005, and then took other steps in the field of literary creativity by writing the novel (Al-Ezba) with its intellectual visions and symbolic inspirations, and he also entered the door of litigation to request what he believes is a constitutional right, which is the right of the police officer to vote in the elections through the legal and constitutional dispute of the text that prevents him from doing so. If the press intended him to ask for a dialogue on these issues and he met her request in implementation of his constitutional right to freedom of expression, not about the secrets of his work or Its requirement, nature, or content, but as a creator or as a litigant, and in this and that is a citizen who makes his contribution to the concern or public affairs, and if his implementation of any of these constitutional rights or licenses is free of abuse to the body to which he belongs (which is the police body) or the minister who is sitting on its head, and it is also free of prejudice to the prestige of the system or projection on it, but all of them came within the limits of expressing its vision and narrative; then the contested decision of the Disciplinary Board, as it was based on the fact that the press dialogue was the subject of accountability at the heart of the work and activities of the police body, and ended up proving the violation attributed to the appellant in his regard, and his disciplinary punishments, he may have drawn an inexplicable conclusion, and extracted from assets that do not produce it in fact and law, which makes him violate the law, and warrants the cancellation, and the innocence of the appellant from what was attributed to him.

Whereas, the foregoing does not affect the reasoning of the contested decision to convict the appellant that he did not abide by the letter of the instructions issued by the Ministry of Interior that prevent police officers from giving press interviews before obtaining permission to preside over them; this is due to the fact that the contested decision itself, as it explicitly implied that the violator has the right to freedom of speech and expression of his opinion as one of the fundamental freedoms guaranteed

Every officer or police member who violates the duties stipulated in this law or in the decisions issued by the Minister of Interior, violates the duty of his job, behaves, or appears in a manner that violates the dignity of the job shall be punished with discipline, without prejudice to the initiation of civil or criminal proceedings, if necessary.

The officer or police officer shall not be exempted from punishment on the basis of the order of his superior unless he proves that his commission of the violation was in implementation of an order issued to him by this superior despite being alerted to the violation. In this case, responsibility shall be borne solely by the source of the order.

The officer or police officer shall only be held accountable for his personal fault [955].

Unit 2: Exemption from liability

An officer or police officer shall not be exempted from punishment on the basis of his superior's order unless he proves that his commission of the violation was in implementation of an order issued to him by this superior despite being alerted to the violation. In this case, responsibility shall be borne solely by the source of the order [956].

by the Constitution, so he could not then turn on his heels to retreat from what he decided from the guarantee due to the appellant to seek instructions to overrule that guarantee, which is no more than (the instructions) To be a mirage that is counted by thirst as water, even if it came to him, he did not find anything, as it is not justified that these instructions are based on the constitutional foundations that guaranteed freedom of expression, or the legal rules and texts contained in the Police Authority Law that enumerated the prohibitions, in accordance with the stable rule in human thought and divine laws, which is that the origin is in permissible things, and it is prohibited only by text, and if these principles are not contained in a ban on the freedom of the officer to express his opinion - other than in the field of his police work - in the field of artistic, literary or scientific creativity or his right In litigation as a citizen, there is no doubt on the appellant if I exercise these freedoms, and he answered the press' request for a dialogue with it about those matters.

The contested decision also does not serve as an obituary for the appellant to go out in the field of exercising freedom of expression at the established borders against state symbols through political projections under the pretext of the press commentary on a literary work of his own, or as a police officers in the marginalized or isolated group, or as a reason to allow those with whom the dialogue was conducted to fabricate what they want from the titles of abuse and confusion. This is due to the fact that what was stated by the appellant as previously mentioned did not in any way imply the erosion of state symbols through political projections, as he did not say anything in this regard except the narrative of the characters or events mentioned in his account, but because they met with agreement with the reality of the political situation or disagreement, the artistic creativity of the novel in the midst of freedom that accommodates it, and not the opinion of the appellant in this reality or those symbols, as the editor who conducted the dialogue extracted what he attributed to it from the context of the novel or its description or commentary, and not from the opinion of the appellant, which is not justified.

Also, his description of police officers as a marginalized or isolated group was not a text in the hadith or intended for them to be so, but rather in the context of referring to a result, which is marginalization, for a reason or reason, which is to deprive them of electoral voting, which resorted to the judiciary to request the abolition of its ban, which is not appropriate for this obituary as an argument or pretext.

As for his saying, in response to a question that he represents the political system, that he swore to respect the constitution and the law and preserve the republican system, and therefore he represents the constitution and the law, and he does not represent the authority that must abide by the constitution, otherwise the dress of legitimacy was taken off it, what he said in this regard - is a chant of legal principles that he and his ilk should adhere to and follow their lines.

As for the argument that he differed in some ideas with the existing regime, it came within the framework of the guaranteed expression within the framework of the ideas and visions he presented in his press talk about a novel with its symbols, or his lawsuit for its purposes, and these and these do not derogate from the constitutionally guaranteed right of expression]..

([955]) Articles No. 47, 77 of the Police Authority Law.

([956]) The second paragraph of Article No. 47, and Article No. 77 of the Police Authority Law.

The grounds for the absence of disciplinary responsibility in the event of committing the violation in implementation of the President's order that such violation does not constitute a criminal offense, as the violation that constitutes a criminal offense is not acceptable to say that it was committed by order of the President [957].

If he complies with a verbal order from his boss despite his belief and knowledge that it is contrary to the law, he may have committed a disciplinary violation that requires accountability and it does not work. It is also the case that the violating subordinate shows that he carried out the verbal instructions of his boss for fear of his oppression or to satisfy him so as not to be subjected to retaliation or fear of deprivation of advantages or self-interest[958].

Unit 3: Disciplinary penalties that may be imposed

Section 1: For police officers

As for the disciplinary sanctions that may be imposed on officers, they are:

1. Warning;
2. The deduction from the salary for a period not exceeding two months per year, and the deduction may not exceed one quarter of the salary per month after the quarter that may be legally withheld or waived, and the period of the deduction shall be calculated for the entitlement to the basic salary alone;
3. postponement of the due date of the allowance for a period not exceeding three months;
4. Denial of allowance;
5. Suspension from work with payment of half of the salary for a period not exceeding six months and the salary includes the subsequent fixed allowances;
6. Removal from employment with the possibility of deprivation of some pension or gratuity within the limits of a quarter [959].

Section 2: For police Personnel

As for the disciplinary sanctions that may be imposed on police officers, they are:

1. Warning;
2. redundant services;
3. Deduction from the basic salary for a period not exceeding ninety days per year, and the deduction in implementation of this penalty may not exceed one quarter of the salary per month after the quarter that may be legally withheld or waived;
4. Postponement of the due date of the allowance for a period not exceeding six months;

(957) Supreme Administrative Court, Appeal No. 21173 of 52 BC, Session of March 12, 2016 AD, 61, p. 813, Rule 63, Appeal No. 3048 of 39 BC, Session of March 23, 1996 AD, 41, p. 873, Rule 100.

(958) Supreme Administrative Court, Appeal No. 2989 of 39 BC, session of March 23, 1996 AD 41, p. 873, rule 100.

(959) Article 48 of the Law on the Police Authority.

5. Denial of the full or half of the allowance;
6. Suspension from work for a period not exceeding six months with the payment of half of the salary, and the salary includes the subsequent fixed allowances;
7. Reducing the salary by no more than a quarter;
8. Delaying the promotion for a period not exceeding three years from the due date;
9. Reducing the grade by no more than one degree;
10. Reducing the salary and grade together as set out in clauses (7, 9);
11. Dismissal from service while retaining the right to a pension or gratuity;
12. Dismissal from service with the possibility of depriving part of the pension or gratuity within the limits of a quarter [960].

Unit 4: the competent to impose the penalty

Section 1: For police officers

The minister, the competent assistant minister, the head of the department, and the like may impose on the officer up to the rank of colonel the punishment of warning and the punishment of deduction from salary for a period not exceeding thirty days in one year, so that the duration of the punishment at one time does not exceed fifteen days.

The minister and the competent assistant minister may sanction the officer of the rank of brigadier general with a warning penalty.

The minister or whoever he authorises from among the assistants of the first minister may amend the punishment by increasing it, reducing it, abolishing the punishment while preserving the subject matter, or referring the officer to the disciplinary board, within thirty days from the date of imposing the punishment by the assistant minister or by the head of the department and his equivalent.

The Disciplinary Board may impose any of the penalties mentioned in the law, namely: warning, deduction from the salary for a period not exceeding two months per year, postponement of the due date of the allowance for a period not exceeding three months, deprivation of the allowance, suspension from work with payment of half the salary for a period not exceeding six months, dismissal from the job with the possibility of deprivation of some pension or bonus within the limits of the quarter[961].

Section 2: For police officers

The heads of departments have the penalty of warning, and the imposition of redundant services [962].

(960) Article No. 77 bis 2 of the Police Authority Law added by Law No. 64 of 2016.
(961) Article 49 of the Police Authority Law.
(962) Article No. 77 bis 2 of the Police Authority Law added by Law No. 64 of 2016.

The director of the sub-department and the officers of the departments and centers and the like may impose the following penalties: warning, redundant services, deduction from the basic salary for a period not exceeding ninety days per year, provided that the deduction in implementation of this penalty does not exceed one quarter of the salary per month after the quarter that may be legally withheld or waived, postponing the date of entitlement to the allowance for a period not exceeding six months[963].

The service agent or his equivalent may impose the following penalties: warning, redundant services, deduction from the basic salary for a period not exceeding ninety days per year, provided that the deduction in implementation of this penalty does not exceed a quarter of the salary per month after the quarter that may be legally withheld or waived, postponement of the due date of the allowance for a period not exceeding six months, deprivation of the full or half of the allowance, suspension from work for a period not exceeding six months with the payment of half the salary, and the salary includes the subsequent fixed allowances [964].

The Head of the Department or his equivalent may impose the following penalties: warning, redundant services, deduction from the basic salary for a period not exceeding ninety days per year, provided that the deduction in implementation of this penalty does not exceed one quarter of the salary per month after the quarter that may be legally withheld or waived, postponement of the date of entitlement to the allowance for a period not exceeding six months, deprivation of the entire allowance or half of it, suspension from work for a period not exceeding six months with the payment of half the salary, and the salary includes the subsequent fixed allowances, salary reduction by no more than one quarter, delay of promotion for a period not exceeding three years from the date of its entitlement, reduction of grade by no more than one degree, reduction of salary and grade together[965].

The competent assistant minister and the competent disciplinary councils may impose the following penalties: warning, redundant services, deduction from the basic salary for a period not exceeding ninety days per year, provided that the deduction in implementation of this penalty does not exceed one quarter of the salary per month after the quarter that may be legally withheld or waived, postponement of the due date of the allowance for a period not exceeding six months, deprivation of the full or half of the allowance, suspension from work for a period not exceeding six months with the payment of half the salary, and the salary includes the following fixed allowances, salary reduction by no more than one quarter, delay of promotion for a period not exceeding three years from the due date, reduction of grade by no more than one degree, reduction of salary and grade together, dismissal from service while retaining the right to pension or gratuity[966].

(963) Article No. 77 bis 2 of the Police Authority Law added by Law No. 64 of 2016.
(964) Article No. 77 bis 2 of the Police Authority Law added by Law No. 64 of 2016.
(965) Article No. 77 bis 2 of the Police Authority Law added by Law No. 64 of 2016.
(966) Article No. 77 bis 2 of the Police Authority Law added by Law No. 64 of 2016.

The head of the department or his equivalent or whoever he authorizes may cancel the disciplinary decision issued by his subordinates within thirty days from the date of its issuance or amend the penalty by tightening or reducing it [967].

The competent assistant minister may file a grievance against the dismissal decision issued by a person other than the Disciplinary Council within thirty days from the date of its announcement, and he may cancel or amend the decision [968].

If the Disciplinary Board has ruled to dismiss the police officer from service, he shall be considered, as soon as the decision is issued and until he becomes final, suspended from his work and shall be paid half of his salary. The Appeal Board shall, if it decides other than dismissal, decide on the matter of half of the suspended salary for this period, either by disbursing it to the police officer or by depriving him of all or part of it [969].

The penalties of warning, redundant services, and deduction from the basic salary for a period not exceeding ninety days per year in terms of erasure are considered one type and the warning provision applies to them[970].

The penalties of delaying the promotion for a period not exceeding three years from the date of its due date, reducing the grade by not more than one degree, reducing the salary and the grade together are considered one type, and they are erased by the passage of four years from the date of imposition of the penalty [971].

Chapter 3: Police Accountability to the State

There are three forms of accountability of the police for its performance before the state represented by its three executive, legislative and judicial powers:

Unit 1: Accountability to the Executive Authority

In many countries, including Egypt, the police is an organ of the executive authority that sets its policy and is supervised by the Minister of the Interior, in accordance with the policies of the existing government. Accordingly, the police are responsible for their work before the control and inspection bodies in the Ministry of the Interior, in accordance with the regulations and systems in force. The control and inspection bodies are subject to the supervision and guidance of the Minister of the Interior, who is supposed to be accountable to (Parliament the House of Representatives) as a member of the government and responsible for implementing its policy in the field of maintaining security and order, combating crime and enforcing the law.

(967) Article No. 77 bis 2 of the Police Authority Law added by Law No. 64 of 2016.
(968) Article No. 77 bis 2 of the Police Authority Law added by Law No. 64 of 2016.
(969) Articles No. 60, 77 bis 2 of the Police Authority Law added by Law No. 64 of 2016.
(970) Article No. 77 bis 2 of the Police Authority Law added by Law No. 64 of 2016.
(971) Articles 66, 77 bis 2 of the Police Authority Law added by Law No. 64 of 2016.

Unit 2: Accountability to the legislative authority

The legislative authority is the authority responsible for enacting legislation and laws. It is assumed that the legislative authority (Parliament, the House of Representatives, or the People's Assembly) represents the popular will and enacts laws that protect the interests of society in various fields. Consequently, the legislative authority can carry out previous oversight by discussing and approving laws that regulate the work of the police and determine its powers and authorities.

The legislative authority is also empowered by the Constitution to control the performance of the executive authority, of which the police is one of the organs, and to hold it accountable for how the laws related to its field of work are implemented. As for Egypt, the House of Representatives can summon at any time the Minister of Interior to be accountable to the House, and to interrogate him for any violations in the implementation of the laws attributed to the police and other security agencies affiliated with the Ministry of Interior.

The Council may form field investigation committees into such violations, and the House of Representatives may, in case of serious violations or serious default, withdraw confidence from the Minister of Interior or from the entire government if necessary.

Section 1: Questions

Subsection 1: Submitting and communicating questions

Each member of the House of Representatives may ask the Prime Minister, one of his deputies, one of the ministers, or their deputies questions in any subject within their competence, in a matter within their competence, in order to inquire about something that the member does not know, to verify the occurrence of an incident that has reached its knowledge, or to determine the intention of the government in a matter. The government must answer these questions in the same session.

They must answer these questions in the same session, and the questions must be answered orally in the session unless they are questions that must be answered in writing.

The member may withdraw the question at any time, and the question may not be converted into an interrogation at the same session [972].

Controls for submitting questions

The question may only be asked by one member, and the question must be in a matter of general importance, not related to a private interest, or have a personal character. The question must be

(972) Article 129 of the Constitution, and Article 198 of the internal regulations of the House of Representatives issued by Law No. 1 of 2016 issued on 13/04/2016 and published on 13/04/2016 in the Official Gazette No. 14 bis (b), regarding the issuance of the internal regulations of the House of Representatives.

clear and limited to the matters to be questioned without any comment, and it must be free of inappropriate phrases[973].

The answer shall be in writing to the questions in the following cases:

First: If the member requests it.

Second: If the purpose of the question is merely to obtain purely statistical data or information.

Third: If the question, with its local character, requires an answer from the competent minister.

Fourth: If the question is asked between the sessions of the session.

The questions stipulated in the previous clauses, and the answer to them, shall be published in writing in a special annex to the control of the Council [974].

The question shall be submitted in writing to the chairman of the board, and the requests for questions shall be recorded according to the dates of their receipt in a special register.

The chairman of the council shall inform the person to whom the provisions of the preceding articles have been taken into account, and the minister competent in the affairs of the House of Representatives.

The member submitting the question may object within seven days to what the Chairman of the Council informs him of the filing of his application due to the lack of the aforementioned conditions, and the Chairman shall present this objection to the General Committee at the first next session [975].

Subsection 2: Including Questions in the Agenda and Discussing Them

The Bureau of the Council shall include the question for which the answer is given orally in the agenda of the nearest session, at least seven days after the date of its notification to the addressee.

Subject to the provisions of this regulation, the response to the question may not be delayed more than one[976] month.

It is not permitted to include in the agenda questions related to topics referred to the committees of the Council, before the committee submits its report to the Council. If the committee is late for the specified date, the question shall be included in the agenda.

In the event that the President of the Republic appoints a new Prime Minister, no questions shall be included in the agenda before the government presents its program unless they are on a subject of special and urgent importance, and after the approval of the Speaker of the Council.

(973) Article 199 of the internal regulations of the House of Representatives.
(974) Article 200 of the internal regulations of the House of Representatives.
(975) Article 201 of the internal regulations of the House of Representatives.
(976) Article 202 number of the internal regulations of the House of Representatives.

It is not permissible for one member to include more than one question in one session.

It includes the questions presented in one topic or in closely related topics to be answered in one session at a time.

Subject to the foregoing provisions, the answers to the questions shall be in the order of their registration, provided that the questions submitted on urgent topics or related to the interest of the community as a whole shall have priority over others[977].

Absence of the Questioner

If the questioner is absent, the answer is postponed to a future session. However, if the answer is in writing, the question and answer shall be recorded in the minutes of the session [978].

Responding to Questions

The respondent shall briefly answer the questions on the agenda, which must be answered orally, and may request the postponement of the answer to the following session:

However, the person to whom the question is addressed may answer it in the first session after being informed, provided that he notifies the chairman of the council of this before the session.

In all cases, the chairperson shall notify the member submitting the question well in advance of the session[979].

Clarifying the Answer

Only the member who asked the question may clarify who asked the question, and comment on his answer briefly once.

However, if the question is related to a subject of general importance, the Chairman of the Council may, at his discretion, authorize the Chairman of the Committee concerned with the subject of the question or another member to make a brief comment or observations on the answer of the person to whom the question is addressed [980].

Referring the answer to a specialized committee

If the answer of the person asked about a question includes some new important information, the Council may decide, at the request of its Chairman, the Chairman of the competent committee, or the person submitting the question, to refer this answer to the competent committee for examination and submission of a report thereon to the Council, and the opinion of the Council in this report shall be taken without discussion [981].

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(977) Article 203 number of the internal regulations of the House of Representatives.
(978) Article 204 of the internal regulations of the House of Representatives.
(979) Article 205 of the internal regulations of the House of Representatives.
(980) Article 206 of the internal regulations of the House of Representatives.
(981) Article 207 of the internal regulations of the House of Representatives.

Preventing Debate During Question Time

It is not permitted for the answer to the question, and the notes and comments on this answer, to turn into a discussion of the subject matter of the question except by following the procedures stipulated in this regulation.

The Council may refer the question, the answer to it, and the observations and comments in its regard to the competent committee, to study its subject matter and notify the Council with a report of the result of its study [982].

The previous procedures for questions that are answered orally shall not apply to those addressed to the Prime Minister, one of his deputies, one of the ministers, or their deputies during the discussion of a subject before the Council. Members may, after being authorized to speak, ask these questions in the session orally, provided that they meet the aforementioned conditions [983].

Subsection 3: Withdrawal and Fallout of Questions

A member may withdraw his question at any time.

It is not permissible to convert the question into an interrogation in the same session [984], and the question is dropped by the demise of the applicant's membership [985].

Section 2: Requests for Information and Urgent Statements

Subsection 1: Submitting and Reporting Overthrow Requests

Every member of the House of Representatives may submit an urgent briefing or statement request to the Prime Minister, one of his deputies, or one of the ministers, or their deputies, in urgent public matters of importance and shall be within the competence of the addressee.

The briefing request must be submitted in writing to the Chairman of the Board, specifying the matters it contains and indicating its general character. Briefing requests shall be recorded in their own register according to the date and time of their receipt.

It is not permitted for the briefing request to be directed by only one member. The briefing request must be in a matter of public importance, not related to a private interest, or have a personal character. The briefing request must be clear and limited to the matters to be questioned without any comment, and it must be free of inappropriate phrases.

The answer shall be in writing to the request for briefing in the following cases:

I. If the member requests it.

([982]) Article 208 of the internal regulations of the House of Representatives.

([983]) Article 209 of the internal regulations of the House of Representatives.

([984]) Article 129 of the Constitution, Article 210 of the bylaws of the House of Representatives.

([985]) Article 211 of the internal regulations of the House of Representatives.

II. If the request for briefing, with its local nature, requires an answer from the competent minister.

III. If the request for briefing is directed between the sessions of the session.

Briefing requests, and the response to them, shall be published in writing in a special annex to the Council Regulation.

Briefing requests related to topics referred to the council committees may not be included in the agenda before the committee submits its report to the council. If the committee is late for the specified date, the question shall be included in the agenda.

In the event that the President of the Republic appoints a new Prime Minister, no briefing requests shall be included in the agenda before the government presents its program unless they are on a subject of special and urgent importance, and after the approval of the Speaker of the Council.

It is not permissible for one member to include more than one briefing request in one session.

Briefing requests submitted on one topic or closely related topics are combined to answer them in one session at a time.

Subject to the foregoing provisions, the response to briefing requests shall be in the order of their registration, provided that the briefing requests submitted on urgent topics or related to the interest of the community as a whole shall have priority over others[986].

The Bureau of the Council may decide to file the application based on the non-fulfilment of the conditions stipulated in the aforementioned articles, while notifying the member in writing.

The member may object to the decision of the Bureau of the Council by a reasoned written request submitted to the Chairman of the Council within seven days from the date of the notification, and the Chairman shall present the member's objection to the General Committee at its first meeting to take what it deems necessary in its regard [987].

The chairman of the board shall notify the person to whom the request for briefing is addressed within thirty days of its submission.

The Bureau of the Council shall include the requests for briefings that are notified in the agenda of the session following the lapse of seven days from their notification according to the importance and seriousness of the matters they contain [988].

Subsection 2: Inclusion and Discussion of Removal Requests on the Agenda

The request for briefing shall be included in the agenda immediately before the questions, and the member who submitted the request shall make a statement, and the person to whom the request

(986) The provisions of Articles (199, 200 except for Clause II, and 203) of the House of Representatives Regulations shall apply to the request for briefing.

(987) Article 134 of the Constitution, Article 212 of the internal regulations of the House of Representatives.

(988) Article 213 of the internal regulations of the House of Representatives.

for briefing is addressed shall answer it briefly. There shall be no discussion of the subject if it is answered in the same session.

The Council may decide to refer the matter to the competent committee to examine it and submit an urgent report thereon [989].

Subsection 3: Urgent Statements

A member may request the Speaker's approval to deliver an urgent statement directed to the Prime Minister or a member of the government about a matter not listed on the agenda, provided it is of urgent and significant public interest.

This request must be submitted in writing, detailing the matters to be addressed and the justifications, before the start of the session.

If the Speaker grants permission, the member delivers their statement briefly to the House before the agenda is addressed.

No discussion of the statement is permitted unless the House decides otherwise[990].

Section 3: Interrogations

Subsection 1: Submission and Notification of Interrogations

Each member of the House of Representatives has the right to address an interrogation to the Prime Minister, one of their deputies, a minister, or their deputies to hold them accountable for matters within their jurisdiction.

The House discusses the interrogation at least seven days after its submission, with a maximum limit of sixty days, unless urgency requires otherwise and the government consents[991].

Procedures for Submitting a Request to Direct Interrogation

The request for directing the interrogation shall be submitted in writing to the Chairman of the Council, indicating in general the subject of the interrogation and attached to it an explanatory memorandum containing a statement of the matters interrogated, the main facts and points addressed in the interrogation, the reasons on which the interrogator relies and the direction of the violation that he attributes to the person to whom the interrogation is directed, and the grounds that the interrogator deems to support what he has said.

The interrogation may not include matters contrary to the Constitution or the law, or inappropriate phrases, or relate to matters that do not fall within the competence of the government, or be in the private or personal interest of the interrogator.

([989]) Article 214 of the internal regulations of the House of Representatives.

([990]) Article 215 of the internal regulations of the House of Representatives.

([991]) Article 130 of the Constitution, Article 216 of the bylaws of the House of Representatives.

It is also not permitted to submit an interrogation on a subject on which the council has already decided in the same session unless new facts arise that justify this.

It is not permitted to include in the agenda interrogations related to topics referred to the committees of the council, before the committee submits its report to the council. If the committee is late for the specified date, the interrogation shall be included in the agenda.

In the event that the President of the Republic appoints a new Prime Minister, no interrogations shall be included in the agenda before the government presents its program unless they are on a subject of special and urgent importance, and after the approval of the Speaker of the Council.

It is not permissible for one member to include more than one interrogation in one session.

It includes the questions presented on one topic or on closely related topics to be answered in one session at a time.

Subject to the foregoing provisions, the answer to the interrogations shall be in the order of their registration, provided that the interrogations submitted on urgent topics or related to the interest of society as a whole shall have priority over others [992].

Report Interrogation to Government

The Speaker of the House shall inform the interpellation to the government to whom it is addressed, and to the Minister concerned with the affairs of the House of Representatives. The Chairman shall notify the member submitting the interpellation[993] in writing.

Subsection 2: Including and Discussing Questioning on the Agenda

Include questioning in the agenda

The interpellation shall be included in the agenda of the first session following its submission in order to set a date for its discussion after hearing the statements of the government.

It is not permitted for the council to discuss the interrogation before the lapse of at least seven days from the date of its submission, except in cases of urgency it deems appropriate and after the approval of the government.

The discussion of the interrogation shall be completed within sixty days at most from the date of its submission.

Interviews submitted on one or several closely related topics are included in the agenda for simultaneous discussion.

The priority in speaking between the interrogators shall be for the original interrogator, and then for the first interrogator in the record of the interrogations.

([992]) Article 217 of the internal regulations of the House of Representatives, the provisions of Article (203) of the House of Representatives Regulation apply to interrogation.

([993]) Article 218 of the internal regulations of the House of Representatives.

The interrogator shall be deemed to have waived any questions or requests for briefing that he has previously submitted on the same subject of interrogation [994].

Precedence of the interrogation over the rest of the items on the agenda

Interrogation takes precedence over all other items on the agenda following requests for briefings and questions.

The interrogation is discussed by the interrogator explaining his interrogation, then he is followed by the person to whom the interrogation is directed, and then the discussion begins on his subject.

The interrogator may respond to the answer of the person to whom the interrogation is directed, and he shall have priority in this [995].

Requesting data to clarify the truth of the subject matter of the interrogation

Each member may request from those to whom the interrogation is directed any data necessary to clarify the truth of the matter regarding the subject of the interrogation, and the request for such data shall be submitted to the chairman of the board in writing well before the date of the session specified for discussing the interrogation.

The government shall submit the aforementioned data after directing the request from the Speaker of the Council to it, and at least forty-eight hours before the date set for the discussion[996].

Making suggestions related to the interrogation

During the discussion, proposals related to the questioning shall be submitted to the Chairman of the Board in writing. The Chairman shall present these proposals after the end of the discussion. The motion of no confidence shall have priority when it is submitted by at least one tenth of the number of members, and then the motion to move to the agenda shall be submitted to other proposals submitted. If there are no proposals submitted to the Chairman regarding the questioning, the discussion shall be declared closed and the agenda shall be moved[997].

The right to speak when presenting suggestions made regarding interrogation

It is not permissible to speak when presenting the proposals submitted regarding the interrogation except to the submitters, and each of them must explain his proposal briefly, and the Council may, based on the proposal of its chairman, refer these proposals or some of them to one of the committees to submit a report on them before taking an opinion on them [998].

(994) Article 219 of the internal regulations of the House of Representatives.
(995) Article 220 of the internal regulations of the House of Representatives.
(996) Article 221 of the internal regulations of the House of Representatives.
(997) Article 222 of the internal regulations of the House of Representatives.
(998) Article 223 of the internal regulations of the House of Representatives.

Subsection 3: Withdrawal and Fall of Interrogation

Withdraw Interrogation

In all cases, the interrogator has the right to withdraw his interrogation at any time, either by a written request submitted to the Chairman of the Council or orally at the session. In this case, he is excluded from the agenda and the Council does not consider it. The interrogator may also refer the subject of the interrogation to a fact-finding committee, after the approval of the Council.

The failure of the interrogator to attend the specified session to discuss his interrogation shall be considered a withdrawal of the interrogation, and in this case the provision of the preceding paragraph shall apply, unless the absence of the interrogator is an excuse accepted by the board.

The Council shall postpone the consideration of the interrogation to a subsequent session and for one time only after hearing the opinion of the government, if the presenter is absent with an acceptable excuse [999]

Lapse of Interrogation

The interrogation shall be dropped by the demise of the membership of the person who submitted it, or the capacity of the person addressed to it, or by the end of the role during which it was submitted [1000]

Section 4: Withdrawal of confidence from the Prime Minister, one of his deputies, one of the ministers or their deputies

The House of Representatives may decide to withdraw confidence from the Prime Minister, one of his deputies, one of the ministers, or their deputies.

It is not permitted to present a motion of no confidence except after an interrogation, and upon the proposal of at least one tenth of the members of the Council. The Council shall issue its decision after discussing the interrogation, and the withdrawal of confidence shall be by a majority of the members.

In all cases, it is not permitted to request the withdrawal of confidence in a matter on which the board has already decided in the same session.

If the Council decides to withdraw confidence from the Prime Minister, one of his deputies, one of the ministers, or their deputies, and the government declares its solidarity with him before the vote, the government must submit its resignation, and if the decision to withdraw confidence is related to one of the members of the government, his resignation must be [1001].

([999]) Article 224 of the internal regulations of the House of Representatives.

([1000]) Article 225 of the internal regulations of the House of Representatives.

([1001]) Article 131 of the Constitution.

Submit a no-confidence motion

The request to withdraw confidence from the Prime Minister, one of his deputies, one of the ministers, or their deputies shall be submitted in writing to the Speaker of the Council signed by at least one tenth of the members of the Council [1002].

Presenting the request for a motion of no confidence to the Council

The chairman shall submit the request for a motion of no confidence to the board after discussing an interrogation addressed to the person from whom the request of no confidence was submitted, and after verifying the presence of the applicants at the session, and the absence of one of them at the session shall be considered a waiver of the request.

Permission to speak shall be granted to two of the proposers, and then the discussion of the request shall take place if the Council deems it appropriate [1003].

Issuing a decision on the request for withdrawal of confidence

The Council shall issue its decision after discussing the interpellation, and the withdrawal of confidence shall be by a majority of the members, and in this case the vote shall be a call by name [1004].

Effect of Withdrawal of Conf

If the council decides to withdraw confidence from the Prime Minister, one of his deputies, one of the ministers, or their deputies, and the government declares its solidarity with him before the vote, the government must submit its resignation, and if the decision to withdraw confidence relates to a member of the government, he must resign.

In all cases, it is not permissible to request the withdrawal of confidence in a subject on which the Council has already decided in the same session [1005].

Section 5: Requests for General Discussion

Submission of Request for Plenary Discussion

At least twenty members of the House of Representatives may request the discussion of a public subject to clarify the government's policy[1006] on it.

The Prime Minister, his deputies, ministers, and their deputies may attend the sessions of the House of Representatives or one of its committees. Their attendance is obligatory at the request of the Council, and they may seek the assistance of senior officials they deem necessary.

([1002]) Article 226 of the internal regulations of the House of Representatives.
([1003]) Article 227 of the internal regulations of the House of Representatives.
([1004]) Article 228 of the internal regulations of the House of Representatives.
([1005]) Article 229 of the internal regulations of the House of Representatives.
([1006]) Article 132 of the Constitution and Article 230 of the Rules of Procedure of the House of Representatives

They must be listened to whenever they ask to speak, and they must respond to the issues under discussion without having a counted vote when taking an opinion [1007].

Inclusion of the request for general discussion in the agenda

The request for the general debate shall be submitted to the Chairman of the Council in writing, and it must include a precise identification of the subject, the justifications and reasons justifying its submission for the general debate in the Council, and the name of the member chosen by the applicants to have priority to speak on the subject of the general debate.

The Bureau of the Council shall include the request for general discussion in the agenda of the first meeting following its submission.

The Council may, without discussion, decide to exclude the application from its agenda because the subject is not suitable for discussion, after hearing the opinion of one of those who support exclusion, and one of those who oppose it. It is permissible, at the request of the government, for the Council to decide to discuss the subject in the same session [1008].

Requests for general discussion shall not be included before the government submits its program, the Council completes its discussion, and issues its decision thereon [1009].

Waiver of Applicants for Plenary Discussion

If all or some of the applicants for the general debate waive it in writing after it is included in the agenda, or after setting a date for discussion in it, so that their number is less than the number necessary to submit it, the council or its chairman, as the case may be, shall exclude it.

Any applicant who is absent without an acceptable excuse from attending the session specified for discussion shall be deemed to have waived the application.

The discussion shall not take place if the number of members submitting the application in accordance with the previous provisions is less than the number necessary to submit it, unless a number of members present adhere to the discussion and the said number is completed.

It is not permissible to speak when presenting proposals submitted regarding draft resolutions except to the sponsors, and each of them must explain his proposal briefly, and the Council may, based on the proposal of its chairman, refer these proposals or some of them to one of the committees to submit a report on them before taking an opinion on them [1010].

([1007]) Article 136 of the Constitution.

([1008]) Article 231 of the internal regulations of the House of Representatives.

([1009]) Article 232 of the internal regulations of the House of Representatives.

([1010]) Article 233 of the Bylaws of the House of Representatives. The provisions of Article (223) of these Bylaws shall apply to proposals for draft decisions submitted by members regarding the subject matter of the request for general discussion.

Section 6: Suggestions willingly

Subsection 1: Submission of proposals and their inclusion in the agenda

Each member of the House of Representatives may submit a proposal of general interest to the Prime Minister, one of his deputies, one of the ministers, or their deputies.

The proposal shall be submitted in writing to the Chairman of the Council, accompanied by an explanatory memorandum explaining the subject of the desire and the considerations of the public interest justified to present the proposal to the Council [1011].

Controls for submitting the proposal willingly

It is not permitted to submit a proposal of desire signed by more than fifty members of the Board.

The proposal may not contain anything contrary to the Constitution, to the law, to inappropriate expressions, to persons or bodies, or to the competence of the Assembly.

The chairman of the council may save any proposal that does not meet the previous conditions, and notify the proposer of the proposal in writing of the preservation decision and its reasons, and he may warn him not to speak about it. If the member insists on his point of view, the chairman shall present the matter to the general committee of the council [1012].

Referring the proposal willingly to the Suggestions and Complaints Committee or the competent committee

The Chairman of the Council shall refer directly to the Suggestions and Complaints Committee, or to the competent committee the proposals submitted by the members for consideration. This committee may request the Chairman of the Council to refer them to the competent ministries and authorities before preparing its report and presenting it to the Council [1013].

Subsection 2: Discussion of proposals willingly

The proposing member shall have priority to speak at the session in which the report on his proposal is included in its agenda.

The Chairman of the Council may authorize one of the supporters of the proposal and one of its opponents to speak before taking the opinion of the Council on the report of the Committee [1014].

If it becomes clear from the progress of the discussion in the committee's report on the proposal that it is necessary to complete some aspects related to its study,

The chairman of the council may request the return of any report to the committee, even if the council has begun to consider it, in order to re-examine the subject or some of its aspects in the

(1011) Article 133 of the Constitution, Article 234 of the bylaws of the House of Representatives.
(1012) Article 235 of the internal regulations of the House of Representatives.
(1013) Article 236 of the internal regulations of the House of Representatives.
(1014) Article 237 of the internal regulations of the House of Representatives.

light of the discussions that took place or the new circumstances and considerations. The council shall decide on this after listening to the opinion of the chairman or rapporteur of the committee and the opinion of the government [1015].

Subsection 3: Withdrawal and Forfeiture of Proposals by Desire

Each member who submits a proposal willingly may withdraw it by a written request submitted by him to the Chairman of the Council until before the inclusion of the report of the committee on his proposal in the agenda of the Council. In this case, the board may not consider it unless the chairman of the committee or one of the members requests to continue its consideration and at least ten members support it.

The aforementioned proposals shall be dropped by the termination of the membership of the applicants, and the remainder of them shall be dropped in the committees until the beginning of the next session, unless the applicants submit a written request to the Speaker of the Council within thirty days from the beginning of the session by adhering to them. The Speaker of the Council shall inform the Committee of these requests to resume its consideration.

In all cases, these proposals shall be dropped by the end of the legislative term [1016].

Section 7: Fact-Finding Committees

Subsection 1: Formation of fact-finding committees

The House of Representatives may form a special committee or assign one of its committees to investigate the facts in a public matter, or to examine the activity of one of the administrative bodies, public bodies, or public projects, in order to investigate the facts in a specific subject, inform the House of the reality of the financial, administrative, or economic situation, or conduct investigations into any subject related to a previous or other work. The House shall decide what it deems appropriate in this regard.

In order to carry out its mission, the committee may collect the evidence it deems appropriate and request to hear the statements of those it deems appropriate. All parties must respond to its request and put at its disposal the documents it requests, documents, or otherwise.

In all cases, every member of the House of Representatives shall have the right to obtain any data or information from the executive authority relating to the performance of his work in[1017] the House.

([1015]) Article 238 of the internal regulations of the House of Representatives, the provisions of Article (71) of these regulations shall apply in regard to the report.

([1016]) Article 239 of the internal regulations of the House of Representatives.

([1017]) Article 135 of the Constitution, and Article 240 of the Bylaws of the House of Representatives.

The fact-finding committee shall be formed at the request of the chairman of the council, the general committee, or one of the specific committees, or at the proposal submitted in writing to the chairman of the council by at least sixty members.

The committee shall consist of an individual number of no less than seven members and no more than twenty-five members chosen by the council and determined by the chairman from among them, based on the nomination of the chairman of the council, taking into account specialization and experience in the topics for which the committee is formed, provided that the parliamentary bodies of the opposition and independents are represented, if their number in the council is not less than ten members.

The formation of the committee shall be issued by a decision by the chairman of the board, including its terms of reference and the duration of its work.

The Committee chooses its secretariat from among its members or from among the employees of the General Secretariat of the Council upon the proposal of the Chairman of the Committee [1018].

Subsection 2: Procedures for Fact-Finding Committees

The fact-finding committee shall, in order to carry out its task, collect the evidence it deems necessary, request the hearing of those it deems necessary to hear their statements, and carry out the necessary reconnaissance, confrontation, field visits, or investigations to clarify the truth in this regard.

All entities must respond to their request and put at their disposal the documents they request, documents, or otherwise.

If the fact-finding committee is unable to submit its report to the council within the time specified by it, it shall prepare a report for the council that includes the obstacles and reasons that led to its delay.

The Council shall bear the expenses of field visits carried out by truth commissions [1019].

Subsection 3: Reports of Fact-Finding Committees

The report of the committee shall include the measures it has taken to investigate all the facts about the subject referred to it, and what reveals to it the reality of the economic, financial, and administrative conditions related to the entity whose activity the committee was tasked with examining, and the extent of its commitment to the principle of the rule of law and to the general plan and budget of the state, and its report shall include its proposals regarding the treatment of the negatives revealed to it.

([1018]) Article No. 241 of the internal regulations of the House of Representatives, amended by replacing Article 1 of Law No. 136 of 2021 regarding the amendment of some provisions of the internal regulations of the House of Representatives issued on 28/7/2021 and published on 28/7/2021.

([1019]) Article 242 of the internal regulations of the House of Representatives.

The Council shall discuss the reports of the fact-finding committees in the first session following their submission.

The priority of speaking in the discussion of the reports of the fact-finding committees shall be for those who submit a written request to the President of the Council before the date specified for discussion [1020].

The rules prescribed for the functioning of the Council's quality committees shall apply to fact-finding committees [1021].

Section 8: Reconnaissance and Confrontation Committees

Subsection 1: Formation of Reconnaissance and Confrontation Committees

The board may, upon the proposal of its chairman or at least twenty of its members, decide to approve the principle of forming a committee for reconnaissance and confrontation in a subject of an important nature that falls within the competence of the board.

The chairman of the council shall issue a decision to form this committee from a number not less than three from among the members of the council and not exceeding ten members, taking into account the specialization and experience in the subjects for which the committee is formed, provided that the representation of opposition parliamentary bodies and independents is taken into account if their number is not less than ten members. The decision to form the committee shall appoint its chairman, its competence, and the duration of its work.

The chairman shall notify the board of the decision to form the committee at the first following session.

The Secretariat of the Special Committee for Reconnaissance and Confrontation shall be chosen from among the members of the Committee, or from among the staff of the General Secretariat of the Council, based on what is proposed by the Chairman of the Committee [1022].

Subsection 2: Reconnaissance and Confrontation Meetings

The committees of the Council may, after the approval of the President of the Council, hold meetings for reconnaissance and confrontation on the occasion of discussing a draft law or a proposal for a law, or on the occasion of studying one of the important general topics referred to the Committee [1023].

The reconnaissance and confrontation meetings aim to achieve all or some of the following purposes:

([1020]) Article 243 of the internal regulations of the House of Representatives.
([1021]) Article 244 of the internal regulations of the House of Representatives.
([1022]) Article 245 of the internal regulations of the House of Representatives.
([1023]) Article 246 of the internal regulations of the House of Representatives.

First: Collecting data that contributes in an effective manner to supplementing the deficiencies or deficiencies in the legislation presented and in making its provisions fully achieve its objectives and are consistent with the basic components of society as determined by the Constitution.

Second: Clarifying the facts of the country's general policy in various fields.

Third: Listening to the suggestions of citizens in matters and topics that concern public opinion, and in the important legislation that is to be issued, in order to affirm the right of the people to express their opinion on public topics.

Fourth: Listening to Egyptian or international public figures to exchange views on international and public issues and problems.

Fifth: Memorizing the truth in a specific subject, which falls within the jurisdiction of the Council [1024].

Meetings for reconnaissance and confrontation shall be held in the building of the Council at the place specified by its Chairman, and the Committee may, with the approval of the Chairman, hold some of its meetings in another place outside the Council [1025].

The dates of the meetings of the reconnaissance and confrontation committees shall be announced by all means of publication and broadcasting, and these meetings shall be held in public, unless the committee decides to hold non-public meetings by a majority of its members in the cases that require it.

Representatives of all media are invited to attend the public meetings [1026].

Also invited to attend the meetings held by the Committee, as well as representatives of the competent state agencies, specialists, technicians and eminent persons with experience and specialization in economic, social and cultural life, as well as bodies and moral persons that the Committee decides the need to listen to its opinion, point of view or use its information and data [1027].

The committee shall notify in writing, through the chairman of the council, bodies and legal persons, and others who decide to listen to it, of the date specified for the meeting of the committee, provided that the heads of bodies and legal persons are notified, to choose their representatives before the committee well in advance of this date.

In all cases, the notification of the committee must include the identification of the topics to be heard, the survey before it, the issues to be clarified, or the memorization of the face of the truth in this regard [1028].

([1024]) Article 247 of the internal regulations of the House of Representatives.
([1025]) Article 248 of the internal regulations of the House of Representatives.
([1026]) Article 249 of the internal regulations of the House of Representatives.
([1027]) Article 250 of the internal regulations of the House of Representatives.
([1028]) Article 251 of the bylaws of the House of Representatives.

Every citizen or body interested in the subject before the reconnaissance and confrontation committees, who has not been invited to the meeting, may send their opinion in writing to the committee, request to be summoned, or call their representative to hear their statements and answer any inquiry or clarification requested from them.

The committee may authorize other citizens to attend all or some of its sessions upon a written request submitted to the chairman of the committee [1029].

Statements shall be made before the committee orally, and the concerned party may send his opinion in writing to the committee, and he may explain it orally at its meetings [1030].

Subsection 3: Reconnaissance and Confrontation Reports

The report of the committee on its mission must include the views expressed on the subject, the reasons on which these views were based, the proposals it approved, the reasons on which it relied in its opinion, as well as the facts it reached through its meetings held for reconnaissance and confrontation, the statements and documents submitted to it, and its evaluation of the testimonies and statements made before it [1031].

The discussion of the reports of the meetings of the Reconnaissance and Confrontation Committee and its procedures shall be governed by the rules prescribed for the functioning of the qualitative committees of the Council.

In important cases, the Speaker of the Council may submit to the President of the Republic and the Prime Minister a report on the procedures followed for reconnaissance and confrontation, and the decisions taken by the Council in this regard [1032].

Section 9: Suggestions and Complaints

Subsection 1: Submission and Transmission of Proposals

Every citizen may submit his written proposals to the House of Representatives on public matters, and he may submit to the House complaints that he refers to the competent ministers. They shall submit their own clarifications if the House so requests, and the person concerned shall be informed of their outcome.

Every citizen may also submit proposals to the Council, including his desire to inform the Council regarding the amendment of laws or regulations or the development of administrative, financial, or economic procedures or systems followed by state agencies, local administration, the public sector, the public business sector, or others.

([1029]) Article 252 of the internal regulations of the House of Representatives.

([1030]) Article 253 of the internal regulations of the House of Representatives.

([1031]) Article 254 of the Bylaws of the House of Representatives. The provisions of Article 244 of the Bylaws apply to the discussion of the reports of the meetings of the Reconnaissance and Confrontation Committee and its procedures.

([1032]) Article 255 of the internal regulations of the House of Representatives.

The proposal may not contain anything that is contrary to the Constitution, the law, inappropriate expressions, prejudicial to persons or bodies, or that is outside the competence of the Council, otherwise it must be preserved.

The proposal shall be submitted in writing and signed by the submitter, and its place of residence and work shall be fixed in it, and its terms must be clear in the statement of the subject that it presents, and the purposes to be achieved from the proposal.

Proposals contained in a public register shall be recorded in serial numbers according to the date of their receipt, indicating the summary of their subject, the name of the applicant, his work and his place of residence [1033].

Referring proposals to the Suggestions and Complaints Committee

The proposal shall be referred to the Suggestions and Complaints Committee, and a copy of it shall be referred to the other committees of the council if it relates to topics referred to it for consideration, and it shall notify the Suggestions and Complaints Committee of its opinion.

The Chairman of the Council may directly refer the proposal related to important and urgent topics to the Prime Minister, or to other competent members of the government [1034].

Presentation of proposals to the Board

The Chairman of the Board shall be presented with a monthly statement that includes, in brief, the topics of the proposals received, their submitters, and the action that may have been taken on them, in accordance with the system issued by a decision taking into account the provisions contained in these regulations [1035].

Subsection 2: Submission and Referral of Complaints

Every citizen may submit a complaint to the Council. The chairman of the board shall refer them to the Suggestions and Complaints Committee, and the committee shall refer them to the competent ministers after examining them, and they shall submit their clarifications if the board so requests, and the person concerned shall be informed of their result.

The provisions of the proposals submitted by citizens shall apply to this[1036] complaint.

Subsection 3: Examination and Study of Proposals and Complaints

The Suggestions and Complaints Committee shall examine the proposals and complaints referred to it. For this purpose, the committee may review the papers and records that enable it to examine important proposals and complaints, listen to the proposer of the proposal or complaint, and

(1033) Article 138 of the Constitution and Article 256 of the bylaws of the House of Representatives.
(1034) Article 257 of the internal regulations of the House of Representatives.
(1035) Article 258 of the internal regulations of the House of Representatives.
(1036) Article 259 of the internal regulations of the House of Representatives.

request the minister to whom the competent entity belongs to provide it with all the facilities that enable it to ascertain the truth.

The Committee shall submit to the Chairman of the Board a report on the results of this examination.

The chairman of the council may request the council to refer the report to the competent committee, or to the government to take the necessary action in this regard [1037].

The committee shall analyze the topics and problems that called for the submission of the proposal or complaint, draw general results and indicators from them, and propose general solutions related to the proposal, or that would remove the causes of the complaint [1038].

Subsection 4: Reports on Proposals and Complaints

The committee shall submit to the chairman of the board periodic reports on the dates specified by the committee included in the results of its study. The committee shall indicate in its report what it deems to be referred from it to the Prime Minister or the ministers, what it deems to be referred to a competent committee, what it deems to be rejected, and what opinion the other committees may have expressed on the proposals and complaints reported to it.

The reports of the committee must include its proposals to address the problems contained in the important proposals and complaints referred to it, which represent a general economic, social or political phenomenon, whether in a specific form applicable to the case in question, or to prevent similar cases in the future.

The chairman of the council may request the council to refer these reports to the competent committee or to the government to take the necessary action in this regard.

The proposer of the proposal or complaint shall be notified in writing of the action taken in either of them[1039].

Section 10: Charging the Prime Minister and members of the government

The indictment of the President of the Republic for violation of the provisions of the Constitution, high treason, or any other felony shall be based on a request signed by at least a majority of the members of the Chamber of Deputies. The indictment shall not be issued except by a two-thirds majority of the members of the Chamber, and after an investigation conducted with him by the Attorney General. If he has an impediment, he shall be replaced by one of his assistants.

([1037]) Article 260 of the internal regulations of the House of Representatives.

([1038]) Article 261 of the bylaws of the House of Representatives.

([1039]) Article 262 of the internal regulations of the House of Representatives.

As soon as this decision is issued, the President of the Republic shall be suspended from his work, and this shall be considered a temporary impediment that prevents him from exercising his competences until a judgment is issued in the case.

The President of the Republic shall be tried before a special court presided over by the President of the Supreme Judicial Council, the membership of the most senior Vice-President of the Supreme Constitutional Court, the most senior Vice-President of the Council of State, and the two most senior Presidents of the Courts of Appeal. The Public Prosecutor shall prosecute before it, and if one of them impedes, he shall be replaced by his successor in seniority. The judgments of the court shall be final and not subject to appeal.

The law shall regulate the investigation and trial procedures, and if the President of the Republic is convicted, he shall be relieved of his position, without prejudice to other penalties [1040].

The Prime Minister and members of the government shall be subject to the general rules governing investigation and trial procedures, in the event that they commit crimes during the exercise of their duties or because of them, and their departure from their positions shall not preclude the initiation or continuation of the case against them [1041].

File an indictment

The request to charge the Prime Minister, his deputies, ministers, or their deputies with high treason shall be submitted in writing to the Speaker of the Council and signed by at least a majority of the members of the Council.

The application must include the acts on which the accusation is based, the reasons on which it is based, and the data, evidence, or documents that the applicants may have to support it.

The president shall refer the request to the Attorney General within two days at most from the date of its submission, to investigate any of those referred to in the subject matter of the accusation, in accordance with the law regulating the procedures for investigating the accusation of high treason [1042].

Immediately after informing the Council of the Attorney General's decision to investigate the indictment request, the Speaker of the Council shall refer the indictment request of the Prime Minister or one of its members and the investigation papers related to it to the Constitutional and Legislative Affairs Committee to prepare a report on it within three days at most from the date of its referral to it. The report of the Committee shall include its opinion on the extent to which the conditions stipulated in the Constitution are met [1043].

(1040) Article 159 of the Constitution.
(1041) Article 173 of the Constitution.
(1042) Article 263 of the internal regulations of the House of Representatives.
(1043) Article 264 of the internal regulations of the House of Representatives.

The council shall consider the report of the Constitutional and Legislative Affairs Committee regarding the request to indict the head of government or one of its members in a secret session unless the council decides otherwise, provided that it is held within the three days following the completion of the committee's report.

The report of the Committee shall be read before it is discussed. The decision of the board to approve the indictment request shall be issued by a two-thirds majority of its members, and this shall be a call by name.

If the final opinion results in the Council's approval of the indictment request, the Speaker of the Council shall inform the President of the Republic of the indictment decision, accompanied by a statement containing the facts attributed to the person in respect of whom the indictment was issued, the procedures followed by the Council, and the reasons and grounds on which its decision was based [1044].

Unit 3: Accountability to the judiciary

The principle of the rule of law requires that the state and all its bodies and organs be subject to the law, and therefore to be subject to legal accountability before the judiciary for any violation of laws and regulations. This applies to the police, which must accept the principle of the independence of the judiciary and its accountability to it. Indeed, the legal responsibility of the police before the judiciary is tight as one of the law enforcement bodies. Therefore, it is assumed that the members of the police force are committed to the constitution and respect for the law in general, and respect for the criminal procedure law and the police law that regulates their field of work in particular, and they must be accountable to The judiciary for any violations or crimes committed during their work and the exercise of their powers and authorities. In Egyptian law, the Public Prosecution, as a judicial authority, exercises control over the validity of all procedures for arresting and bringing the accused before the competent authorities. At the same time, those in charge of judicial control are held accountable for any violations of their legally specified powers and authorities. Article 22 of the Code of Criminal Procedure stipulates that: "Judicial officers shall be subordinate to the Public Prosecutor and subject to his supervision in relation to the work of their job. The Public Prosecutor may request the competent authority to consider the matter of anyone who violates his duties or fails to work. He may request Filing a disciplinary lawsuit against him, and all this does not prevent the filing of a criminal lawsuit[1045] .

Section 1: the criminal responsibility of police officers and members

Subsection 1: Ordering the Torture of an Accused

The Penal Code stipulates that every public official or employee who ordered the torture of an accused person or did so himself to get him to confess to aggravated imprisonment or

([1044]) Article 265 of the internal regulations of the House of Representatives.

([1045]) Article 22 of the Criminal Procedure Law.

imprisonment from three to ten years, and if the victim dies, he shall be sentenced to the penalty prescribed for intentional killing [1046].

Preamble

Article 55 of the Constitution guarantees the safety of the body in the face of criminal proceedings, stipulating that: "Anyone who is arrested, imprisoned, or whose freedom is restricted must be treated in a manner that preserves his dignity. He may not be tortured, intimidated, coerced, or physically or morally harmed. His detention or imprisonment shall only be in places designated for that purpose as humanly and healthily appropriate. The State shall provide the means of access to persons with disabilities.

The violation of any of this is a crime punishable in accordance with the law.

The accused has the right to remain silent. Every statement that proves that it was made by a detainee under the weight of any of the foregoing, or the threat of any of it, is wasted and unreliable. "

This right presupposes the prohibition of torture of the accused, and this principle was confirmed by the Universal Declaration of Human Rights of 1948, which prohibited the torture of the accused in its article 5, which states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." This right represents one of the basic values in a democratic society, and it branches off from the duty to respect human dignity "dignité humaine". This right has three consequences: the inadmissibility of subjecting the accused to torture, the inadmissibility of inhuman treatment, and the inadmissibility of subjecting him to inhuman punishments.

In this request, we present an analysis of the crime of torturing the employee or public employee of the accused to make him confess. We address the beginning of the elements of the crime, and then present the problems associated with it, including committing torture in obedience to the orders of superiors, and using the right of legitimate defense against the accused.

Elements of the crime of ordering an employee or public servant to torture an accused person to make him confess

The establishment of that crime requires a material element, which is the act of torture, and the availability of a special characteristic in the perpetrator, which is to be an employee or public servant, and a special characteristic in the victim, who is the accused, as well as the moral element or criminal intent.

First: The capacity of the perpetrator

Article No. 126 of the Penal Code stipulates that: "Every public official or employee...", and it follows that in order for the crime to be realized, the perpetrator must have a special characteristic, which

([1046]) Article 126 of Law No. 58 of 1937 regarding the issuance of the Penal Code.

is to be an official or a public employee. Article No. 119 of the Penal Code stipulates that: "A public official means, in the provisions of this Part:

a. Those responsible for the public authority and those working in the state and local administration units.
b. Heads and members of councils, units, popular organizations and others who have a general representative capacity, whether they are elected or appointed.
c. Members of the armed forces.
d. Whoever is delegated by a public authority to carry out a specific work, within the limits of the work delegated therein.
e. Chairmen and members of boards of directors, directors and other employees of entities whose funds are considered public property in accordance with the preceding article.
f. Whoever performs a work that is carried out in the public service on the basis of an assignment issued to him in accordance with the laws or by a public official within the provisions of the preceding paragraphs, whenever he owns such assignment in accordance with the prescribed laws or systems, in relation to the work that is assigned.

It is the same if the job or service is permanent or temporary, with or without pay, voluntarily or forcibly.

The termination of service or the loss of capacity shall not preclude the application of the provisions of this Part whenever the work occurs during the service or the availability of the capacity. "

The Court of Cassation ruled that: [What is meant by a public official is a person who is given some degree of public authority permanently or temporarily or is granted this status by virtue of laws and regulations] [1047].

It also ruled that: [It is established that a public official is the one who is entrusted with permanent work in the service of a public facility managed by the state or a person of public law, by holding a position that falls within the administrative organization of that facility] [1048].

([1047]) Appeal No. 24651 of 69th session of February 11, 2002 AD 53 p 280.

([1048]) See Appeal No. 8249 of 67S, Session of June 2, 2005, Appeal No. 14807 of 65S, Session of February 3, 2005, Appeal No. 2616 of 66S, Session of January 2, 2005, Appeals No. 15506, 9615 of 65S, Session of January 15, 2004, Appeal No. 8215 of 65S, Session of November 10, 2003, Appeal No. 13563 of 62S, Session of February 7, 2002, AD 53, p. 265, Appeal No. 14376 of 64 s Session of 25 October 2000 AD 51 p. 667, Appeal No. 12898 of 64 s Session of 14 June 2000 AD 51 p. 507, Appeal No. 41037 of 59 s Session of 11 January 1998 AD 49 p. 79, Appeal No. 30909 of 59 s Session of 4 November 1997 AD 48 p. 1193, Appeal No. 608 of 60 s Session of 5 January 1997 AD 48 p. 19, Appeal No. 5486 of 62 S hearing 1 February 1995 AD 46 p. 291, Appeal No. 21484 of 59 s hearing 21 May 1992 AD 43 p. 548, Appeal No. 8951 of 59 s hearing 29 March 1992 AD 43 p. 344, Appeal No. 7193 of 60 s hearing 10 October 1991 AD 42 p. 981, Appeal No. 3494 of 59 s hearing 27 May 1991 AD 42 p. 897, Appeal No. 16077 for the year 59 S Hearing of January 17, 1991 AD 42 p. 98, Appeal No. 4684 for the year 58 S Hearing of November 2, 1989 AD 40 p. 819, Appeal No. 1201 for the year 59 S Hearing of June 1, 1989 AD 40 p. 602, Appeal No. 2814 for the year 56 S Hearing of October 9, 1986 AD 37 p. 723, Appeal No. 2506 for the year 53 S Hearing of January 11, 1984 AD 35 p. 39, Appeal No. 2125 for the year 50 S Hearing of February 9, 1981 AD 32 p. 147, Appeal No. 1601 of 45 s Hearing of February 2, 1976 AD 27 p. 152, Appeal No. 2015 of 36 s Hearing of March 6, 1967 AD 18 p. 299, Appeal No. 1813 of 35 s Hearing of February 15, 1966 AD 17 p. 152..

The status of public official in this crime is closely related to his exercise of the authority of his job. It is not imagined that the public official or employee is unrelated to the conduct of the proceedings in the criminal case or in proving it. The crime is often committed by judicial officers or their aides and assistants.

Accordingly, anyone who works in the name of the authority and for its account, regardless of the name given to him, is considered a public official. The term public official or public employee is used for anyone who occupies a position that derives its authority from the state without regard to the type of work he performs. Therefore, it includes mayors, sheikhs, guards, and their sheikhs, as well as policemen from their lowest to highest ranks.

It is sufficient for the crime to have the status of public official or public employee in the perpetrator and to have the authority under his public function to allow him to torture the accused, and it is not required for it to be the competence of the employee to conduct inference or investigation regarding the criminal incident, but it may not have the legal powers to interrogate the accused or question him. The Court of Cassation ruled that: [It is decided that it is not required to apply the text of Article 126 of the Penal Code, that the public official who tortured the accused with the intention of getting him to confess is competent to the procedures of inference or investigation regarding the criminal incident committed by the accused or his suspicion of committing or participating in it, but it is sufficient for the public official to have an authority under his public function that allows him to torture the accused with the intention of getting him to confess and whatever the motive to do so[1049].

Article 1 of the Code of Conduct for Law Enforcement Officials states: "... (a) "law enforcement officials" includes all law enforcement officials who exercise police powers, in particular powers of arrest or detention, whether appointed or elected;

(b) In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of 'law enforcement personnel' shall be deemed to include personnel of those services..."

Second: The status of the victim

In the application of Article 126 of the Penal Code, the accused means anyone who has been accused of committing a specific crime. In this regard, the Court of Cassation ruled that: [It is established that the accused in the provision of the first paragraph of Article 126 of the Penal Code is everyone who has been accused of committing a specific crime, even if this is during the task of judicial officers to search for crimes and their perpetrators and collect the evidence necessary for investigation and lawsuit in accordance with the provisions of Articles 21 and 29 of the Code of

(1049) Appeal No. 5732 of 63rd session of March 8, 1995 AD 46, p. 488.

Criminal Procedure, as long as there is suspicion that he is involved in committing the crime in which these officers collect evidence] [1050].

Third: The Material Element of the Crime

The material element of the crime under study is achieved by committing the act of torture, and the Penal Code does not provide a specific definition of the act of torture, and Article 55 of the Constitution stipulates that: "Whoever is arrested, imprisoned, or whose freedom is restricted must be treated in a manner that preserves his dignity, and it is not permissible to torture, intimidate, coerce, or harm him physically or morally, and his detention or imprisonment shall only be in places designated for this purpose in a humane and healthy manner, and the state is obligated to provide the means available to persons with disabilities..."

The Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states: "1. For the purposes of this Declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person by or at the instigation of a public official for such purposes as obtaining from that person or another person information or a confession, punishing him for an act he has or is suspected of having committed, intimidating him or intimidating other persons. To the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners, torture shall not include pain or suffering arising solely from, inherent in, or incidental to lawful sanctions.

2. Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment. "

Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states: "1. For the purposes of this Convention, "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. This does not include pain or suffering arising solely from, inherent in, or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which contains or may contain provisions of wider application. "

The American Convention to Prevent and Punish Torture, in its article 2, defines the act of torture as: "For the purposes of this Convention, torture is understood as an act committed intentionally to inflict physical or mental pain or suffering on any person for the purposes of criminal

([1050]) Appeal No. 36562 of 73rd session of February 17, 2004 AD 55, p. 164, Appeal No. 5732 of 63rd session of March 8, 1995 AD 46, p. 488, Appeal No. 1314 of 36th session of November 28, 1966 published in the third part of the Technical Office's letter No. 17, p. 1161.

investigation as a means of intimidation, as a personal punishment, as a preventive measure, or for any other purpose. Torture is also understood as the use of means intended to obliterate the personality of the victim, or to impair his physical or mental abilities, even if they do not cause physical or mental pain.

The concept of torture does not include physical or mental pain or suffering that is inherent in or is an effect of legal proceedings, provided that it does not include the commission of acts or the use of means referred to in this article. "

The Court of Cassation ruled that: [It is decided that physical torture is not required to have a certain degree of gravity and it is up to the discretion of the trial court to deduce it from the circumstances of the case] [1051].

It also ruled that: [It is established that the law did not define physical torture and did not require it to have a certain degree of gravity and does not need to lead to injury to the victim and it is up to the discretion of the trial court to deduce it from the circumstances of the case][1052].

It is clear from this that torture is an assault on or harm to the accused, whether this assault or harm is physical or psychological, so the physical pain is equal to the psychological pain, and this is evident from the constitutional legislator's statement... His physical or moral harm...» The legislator has equated physical or moral harm.

The text of Article 126 of the Penal Code also contains the word torture devoid of any descriptions, and it follows that the legislator did not differentiate in the type of torture or abuse, whether physical or moral, so the legislator criminalized any form of influence on the accused, whether material or moral.

It is not required that torture lead to injury to the victim, so the Court of Cassation ruled that: [The law did not require the elements of the crime of torture for the accused to be present in order to get him to confess stipulated in Article 126 of the Penal Code, that torture has led to injury to the victim, just to bend his hands behind his back and hang him in a pinnacle with his head down - which was proven by the judgment against the appellant from the statements of the victim's wife - is considered torture, even if it does not result in injuries] [1053].

It is also not required that the perpetrator - the employee - carry out the act of torture himself. The legislator, in Article 126 of the Penal Code, suffices in the material element of the crime to order torture, without actually requiring the occurrence of torture. Torture means that the superior positively or negatively discloses his binding will to the subordinate to exert physical or moral violence on an accused person to force him to confess.

([1051]) Appeal No. 44223 of 73rd session of April 4, 2004 (unpublished).

([1052]) Appeal No. 15220 of 75 BC Session of December 28, 2005 AD 56 p. 844.

([1053]) Appeal No. 3351 of 56th session of November 5, 1986 AD 37 p. 827.

Photographs of the torture order

Ordering torture can be positive or negative.

Positive order for torture

This is achieved by the boss ordering his subordinates to torture the accused to obtain a confession, and the matter does not have a fixed formula. He does any formula and in any language, whether the formula is explicit in its words, such as the boss telling the subordinate to beat or torture him to obtain a confession, or subjecting him to any kind of pressure until he confesses. The formula can be implicit, such as the president saying to his subordinates, "Do the necessary," and this phrase is familiar to them, and it can be in the form of a signal from the president to the subordinate, such as a nod, shaking the head, or knocking on the table, for example, as long as this signal is familiar to them, as the order of torture is valid for a statement and a hint.

The torture order does not require that this order specify the type of torture required, the method of practicing it, its place, or its duration, and it is equal that the order is issued from the superior to the next subordinate in the hierarchy or to other subordinates without regard to the hierarchy.

The positive order of torture is not imagined to be in a written form, as it is unreasonable for the president to issue a written order to his subordinates to torture the accused, because that writing will be tangible physical evidence of the crime of ordering torture, and it is also inconceivable, in light of the criminalization of torture internationally and regionally, for any president to violate legitimacy in such a manner. Torture is often an individual verbal order issued to subordinates to act in the light of this order.

The crime against the superior is not based on his subsequent approval of the act of torture, and the example of this case is that the subordinate tortures the accused and obtains from him the required confession. After the torture is completed, the matter is presented to the superior who approves this act, and therefore his approval is a subsequent approval. This approval is not carried out by the crime of ordering torture because it is like consent and approval of what was done, but it is not suitable to be an order or permission to torture as it is subsequent to the completion of the crime. The perpetrator here is the subordinate without the superior.

The crime is achieved by merely ordering or authorizing torture and does not require torture to actually occur. The mere order of torture is a criminal act. Therefore, if the superior orders the subordinate to torture an accused, but the subordinate for one reason or another does not torture the accused, the crime of ordering torture becomes existing, due to the completion of his criminal activity of disclosing his will to torture the accused.

Negative order to torture

The negative order of torture is achieved in the event of non-interference by the president to prevent his subordinates from torturing the accused, which constitutes an abstention from an act imposed by law, by taking a negative position, by not issuing orders to his subordinates to stop

torturing the accused. In this case, it is assumed that the president saw the accused being tortured, so he preferred this procedure and did not order the cessation of torture. The crime is also achieved in the event that torture is not witnessed, due to the knowledge of the president that there is an accused being tortured to obtain a confession from him, whether this knowledge is through the president himself, such as hearing the voices of distress issued by the accused in the event of torture or hearing the sounds of screaming resulting from torture, or his knowledge through a complaint from the accused, his agent, or his family.

Therefore, for the perpetrator to be questioned about his negative order of torture, two conditions are stipulated:

The first condition: The existence of a legal duty to do a certain job and refrain from doing this duty, and in this crime, the legal duty imposed on the president is the duty to preserve the accused, his dignity and safety, and to refrain from harming him materially or morally, according to the legislative and constitutional texts that determine the right of the citizen who is arrested to be treated in a manner that preserves his dignity and does not harm him. This legal duty imposed by the Constitution in Article No. 55, and determined by international conventions, is a duty that goes to every authority who deals with the accused in the stages of accusation and trial, as long as he is entrusted with the implementation of a procedure of investigation, trial or execution, during which it is imagined that the accused will be subjected to material or moral coercion, and the official in charge of preventing these pressures refuses to prevent them for his approval and approval. This refusal was tant to carry out a negative order of torture.

The second condition: The ability to carry out this duty, by having the necessary will to abstain, in the sense that there is a causal relationship between the will and the negative behavior taken by the abstainer, and when this abstention is stripped of the voluntary capacity, the description of abstention does not apply to him.

Therefore, in order for the crime of the negative order of torture to be realized, the president - the perpetrator of the crime - must have a free will that makes him refrain from freedom and choice in preventing this torture with the ability to prevent it, but refrain from the compatibility of the torture that is carried out with his will to practice this torture to obtain a confession.

Fourth: Criminal Intent

1- Achievement of criminal intent

The criminal intent is achieved whenever the employee or public employee tortures an accused person to make him confess and has no reason to do so. Extracting the availability of this intent is within the discretionary power of the trial court without any control over it from the Court of Cassation when it is properly extracted from the case papers. The Court of Cassation ruled that: [It is decided that the criminal intent required in the crime stipulated in Article 126 of the Penal Code, is achieved whenever the employee or public employee tortures an accused person to make him confess, regardless of the motive That, and the availability of this intent was what falls within the

discretionary power of the trial court, which distances itself from the control of the Court of Cassation, when it was extracted properly derived from the case papers, and the judgment responded to the initial plea of the appellants regarding the absence of criminal intent and dismissal based on what the court invoked with justifiable reasons from the circumstances surrounding the incident, and the evidence derived from the statements of the prosecution witnesses, and what the second accused decided in the investigations of the Public Prosecution that an infringement occurred on the victim, and that the attack was not intended to harm him, but exceeded their activity in attacking the victim to force him to confess to the crime for which he was accused, and then the judgment shall have demonstrated the availability of the criminal intent for the crime stipulated in Article 126 of the Penal Code against the appellants] [1054].

2. Recognition

The criminal intent is achieved in the crime of torturing an accused person with the intention of obtaining a confession to commit the act of torture, and it is not required for it to be fully realized. The Court of Cassation ruled that: [It is established that the application of the provision of Article 126 of the Penal Code does not require a confession to be actually obtained, but it is sufficient - according to its explicit text - for the torture of the accused to occur with the intention of getting him to confess][1055] .

Fifth: Causal Relationship

In order for the crime to be investigated, a causal relationship is required between the accused's act and the result of the torture. The Court of Cassation ruled that: [Since the causal relationship in the criminal articles is a material relationship that begins with the act committed by the perpetrator and is morally linked to what he must expect from the usual results of his act if he deliberately comes to it. This relationship is an objective issue that the trial judge alone assesses and when he decides on it as evidence or denial, the Court of Cassation has no control over him as long as he has based his judiciary on reasons leading to his conclusion. Whereas the judgment has established the existence of a causal relationship between the acts of torture committed by the appellant and the result of these acts, which is the death of the victim, in saying: "Since the court considers that there is a causal relationship between the act of torture committed by the accused against the victim and the result of this torture, which is the death of the victim by drowning, the provision of the second paragraph of Article 126 of the Penal Code is based on and applies to the facts of the case, as the act of torture committed by the accused against the victim since the beginning of the acts of torture By beating and dropping into contaminated water with the threat of being thrown into the sea and what led to this with the continuation of the assault in that form on a small boy and pushing him to the edge of the water pavement in an attempt to lower him again.

([1054]) Appeal No. 5732 of 63rd session of March 8, 1995 AD 46, p. 488, and Appeal No. 2460 of 49th session of November 13, 1980 AD 31, p. 979.

([1055]) Appeal No. 5732 of 63rd session of March 8, 1995 AD 46 p. 488, Appeal No. 1314 of 36th session of November 28, 1966 and published in the third part of the Technical Office's letter No. 17 p. 1161.

The victim was previously harmed by the previous one. All of this entails that the victim tries to get rid of the grip of the accused by pulling him. It also entails the accused to push him to try to lower the victim into the water or even threaten him while he is not sure that the victim is good at swimming. All of this took place in a spot On the side of the pavement, it was narrowed by the presence of oil pipes extending along it. This sequence, which ended with the victim falling into the sea water and is related to the defendant's belt and then drowning and death, is considered normal and familiar in life and current with the usual turn of things and did not involve an abnormal factor unlike the cosmic year. Therefore, it is not accepted and not heard from the defendant that he did not expect that the last result, which is the death of the victim by drowning," which is a justifiable pampering that leads to the outcome of the judgment and is in accordance with the law. What the appellant mourns in this regard is not correct, as well as The absence of his interest in this immunity because the penalty imposed by the sentence, which is imprisonment for a period of five years, falls within the scope of the punishment prescribed for the crime of torturing a defendant to force him to confess the circumstances of the death of the victim stipulated in the first paragraph of Article 126 of the Penal Code] [1056].

Sixth: The extent to which the perpetrator benefited from the text of Article 63 of the Penal Code - Committing the crime in implementation of an order issued to him by his superior

Article 63 of the Penal Code stipulates that: "There shall be no crime if the act is committed by a princely employee in the following cases:

1- If he commits the act in execution of an order issued to him by a superior who is obliged to obey him or believes that he is obliged to do so.
2- If he has good faith and commits an act in implementation of what is ordered by the laws or what he believes his action is within his competence.
   In any case, the employee must prove that he did not commit the act until after verification and investigation and that he believed that it was legitimate and that his belief was based on reasonable grounds.

The text of Article 63 of the Penal Code to authorize the act of a public official assumes the issuance of an unlawful order by a superior who has the authority to direct the order to him and the employee undertakes this act, believing that it is a legitimate act or that obeying his superior in this act is obligatory. It is clear from this that it is required for the employee to benefit from the authorization of his criminal act three conditions:

Condition 1: Employee Goodwill

The employee must mistakenly believe that the act he commits is legitimate, and therefore there is no good faith if the employee knows that the law punishes the act he commits. In this regard, the Court of Cassation ruled that: [It is established that obedience to the president does not extend in

([1056]) Appeal No. 2460 of 49th session of November 13, 1980 AD 31 p. 979.

any way to the commission of crimes and that a subordinate does not have to obey the order issued to him by his superior to commit an act that he knows is punishable by law] [1057].

It is inconceivable that the employee believes - in good faith - in the legality of ordering torture or actually practicing torture. In addition, ordering or practicing torture is a stipulated crime; therefore, no one is accepted to plead ignorance of the law pursuant to the rule that ignorance of the Penal Code is not an excuse, a fortiori the employee or judicial officer who ordered or practiced torture himself.

Accordingly, the employee or judicial officer who orders torture or who practises it shall not be exempted from punishment in accordance with the text of Article 63 of the Penal Code, due to the absence of the two exemption conditions contained in the text.

The second condition: Verification and investigation

The permissibility of the work of the public official when executing the order of his superior must be proven - in addition to the availability of his good faith - that he did not commit the act until after verifying and investigating its legitimacy, and the burden of proving this falls on him. In this regard, the Court of Cassation ruled that: [Article 63 of the Penal Code in its first paragraph applies only if it is proven that an order was issued by a superior who must be obeyed - and the employee's belief in the issuance of the order does not replace the fact that it was actually issued and the confirmation of the issuance of the order is indispensable for the availability of good faith][1058] .

This is achieved by the employee doing everything possible to verify the legality of the act before it is committed, that is, in order to verify that the act is within his competence or that the order issued to him by his superior is not defective.

There is no doubt that the act of torture does not need to make an effort to verify its illegality.

([1057]) Appeal No. 48600 of 85 S hearing December 21, 2016, Appeal No. 14934 of 83 S hearing February 4, 2014 AD. 65 p. 48 , and also ruled that: Although the obedience of the President under Article 63 of the Penal Code does not extend in any case to the commission of crimes and that the subordinate does not have to obey the order issued to him by his superior to commit an act that he knows that the law is punishable, but it depends - and according to the practice of this court - That the act committed by the subordinate is unlawful in itself and that the intention of criminality is clear], Appeal No. 2592 of 79 s session of April 21, 2010, Appeal No. 51824 of 75 s session of April 20, 2008, Appeal No. 50721 of 75 s session of February 13, 2006 AD 57 p. 209, Appeal No. 24012 of 74 s session of December 4, 2004 AD 55 p. 772, Appeal No. 19859 of 70 s session of July 13, 2003 AD 54 p. 780, Appeal No. 24823 for the year 69 s Hearing of May 15, 2000, Appeal No. 24947 for the year 66 s Hearing of November 16, 1998 AD 49 p. 1294, Appeal No. 9373 for the year 66 s Hearing of May 3, 1998 AD 49 p. 622, Appeal No. 5731 for the year 63 s Hearing of July 5, 1995 AD 46 p. 910, Appeal No. 5732 for the year 63 s Hearing of March 8, 1995 AD 46 p. 488, Appeal No. 19153 of 61 s Hearing of 18 May 1993 AD 44 p. 499, Appeal No. 6860 of 59 s Hearing of 16 February 1993 AD 44 p. 187, Appeal No. 6533 of 52 s Hearing of 24 March 1983 AD 34 p. 432, Appeal No. 4424 of 52 s Hearing of 30 November 1982 AD 33 p. 937, Appeal No. 869 of 44 s Hearing of 24 November 1974 AD 25 p. 756, Appeal No. 927 of 44 s Hearing of 13 From October 1974 AD 25 p. 674, Appeal No. 95 of 42 s Hearing of 13 March 1972 AD 23 p. 388, Appeal No. 1913 of 38 s Hearing of 6 January 1969 AD 20 p. 24, Appeal No. 360 of 31 s Hearing of 29 May 1961 AD 12 p. 628, Appeal No. 936 of 16 s Hearing of 13 May 1946 and published in Legal Rules No. 7 Part I p. 142, Appeal No. 1038 of 15 s Hearing of 22 October 1945 and published in Legal Rules No. 6 Part I p. 768..

([1058]) Appeal No. 1412 of 26th session of January 28, 1957 AD. 8 p. 76.

The third condition: The belief in the legality of the act must be based on reasonable grounds

Third, the permissibility of the employee's act requires that his belief in the legitimacy of the act he committed is based on reasonable grounds, and the criterion for the availability of this condition is the normal employee's criterion if it is placed in the same circumstances, circumstances and factors that surrounded the accused employee [1059].

In application of the foregoing, the employee or the judicial officer who orders torture or who practises it shall not be exempted from punishment in accordance with the text of Article 63 of the Penal Code, due to the absence of the conditions for exemption contained in the text of Article.

Seventh: The extent of the permissibility of the legitimate defense against the act of the torturer

Article 346 of the Penal Code stipulates that: "The right of legitimate self-defense shall be permissible for a person except in the exceptional cases indicated after the use of the necessary force to defend any act considered a crime against the person stipulated in this law.

The right of legitimate defense of property allows the use of force to respond to any act that is considered a crime stipulated in Parts Two, Eight, Thirteen and Fourteen of this book and in paragraph 4 of Article 379.

As a general rule, in order for the right of legitimate defense to arise, the act of aggression that led to its response and resistance must meet two conditions:

First: The assault must be an act that is considered a crime against self or property.

Second: The assault must be immediate or imminent.

As for the condition that the assault is considered a crime against oneself, jurisprudence has unanimously agreed that the act of assault must be unlawful, that the assault or its danger is considered a crime. If the assault is not considered a crime, the right of legitimate defense does not exist.

There is a characteristic of assault on the act committed by the torturer, as the act of torture committed against the accused constitutes an existing crime stipulated in Article 126 of the Penal Code. Therefore, if the accused, who is subjected to torture, repudiates the assault inflicted on him by the torturer, he shall not be punished because he used a legally prescribed right to defend himself against the acts of the aggressor, which may constitute a crime against himself.

It is inconceivable that the accused - who is subjected to torture - should invoke the possibility of resorting in a timely manner to the protection of public authority in accordance with the text of Article 247 of the Penal Code, which stipulates that: "This right does not exist when it is possible to rely in a timely manner on the protection of the men of public authority," because the act of

(1059) Penal Code - General Theory; Dr. Abdel Fattah Mustafa Al-Saifi; Professor of Criminal Law, Faculty of Law, Alexandria University; Dar Al-Huda Publications; page 513.

aggression against him is an act of the men of public authority themselves and it is not conceivable that the accused - the victim - will take refuge with the perpetrator of torture.

The defendant - who is subjected to torture - is also not subject to the provisions of Article 248 of the Penal Code, which prohibits the use of the right of legitimate defense to resist a judicial police officer, which stipulates that: "The right of legitimate defense does not allow the resistance of one of the police officers while carrying out an order based on the duties of his job with good faith, even if this officer exceeds the limits of his job, unless it is feared that his actions will result in death or severe injuries and this fear has a reasonable reason."

The principle is that it is not permissible to use the legitimate defense against the judicial officer, even if he exceeds the limits of his job, but this is limited by the availability of two conditions:

First: The goodwill of the judicial officer, so the officer must believe in the legitimacy of the work he performs.

Second: He should not fear that his act will result in death or serious injuries if this fear has a reasonable cause.

The crime of ordering the torture of the accused to make him confess cannot meet these two conditions, as torture or ordering it is not a duty of the job. On the contrary, it is the job of the judicial officers to protect the citizen from any attack in implementation of the requirements of his job. The employee's order to torture the accused to make him confess or actually torture him does not come from good faith. Therefore, the accused - the victim - may use force and defend himself to defend this crime, even if he is not afraid of the actions of the man of power to cause death or severe injuries.

Eighth: The Aggravated Image of the Crime

The aggravated form of the crime of ordering torture is achieved to obtain the confession of the accused if the victim dies, and the intent to kill is not required to punish the aggravated form of the crime. The origin is that the perpetrator intended only to coerce the accused to confess, not his death, but another result was achieved that exceeded this intent to achieve the death and the killing became intentional, and the legislator did not require a specific form in the perpetrator's act in terms of cruelty, severity or harshness of execution in achieving that result, so that death occurs as a result of torture, even if it is the simplest type of torture, it is conceivable that death may occur as a result of nervous shock or as a result of surprise in the practice of torture or as a result of a sudden drop in the blood circulation due to the severity of the trauma resulting from the conduct of torture with the accused.

Criminal Penalty for Torture

The criminal legislator has set original penalties and consequential penalties for the perpetrator of torture to force the accused to confess, for each form of torture separately, so we will introduce the punishment of simple torture, and follow it with the punishment of torture leading to death:

First: Punishment of simple torture

The first paragraph of Article 126 of the Penal Code stipulates that: “Every public official or employee who ordered the torture of an accused person or did so himself to get him to confess shall be punished by rigorous imprisonment or imprisonment from three to ten years.”

Article 126 of the Penal Code punishes the crime of ordering the torture of an accused person to obtain a confession of aggravated imprisonment or imprisonment from three to ten years, which is a penalty that falls within the limits prescribed for the punishment of the felony, and it is up to the judge to impose the punishment of aggravated imprisonment or imprisonment, according to the circumstances of each incident presented to him.

Second: Punishment of torture leading to death

Article 126 of the Penal Code, in its second paragraph, referred to the penalty of premeditated murder for anyone who tortures the accused to death, stipulating that: «... If the victim dies, he shall be sentenced to the penalty prescribed for intentional killing. "

The Penal Code distinguishes between two types of murder, simple murder punishable by Article 234 of the Penal Code, and premeditated murder or stalking punishable by Article 230 of the same law.

The first paragraph of Article 234 of the Penal Code stipulates that: "Whoever deliberately kills a person without premeditation and is not monitored shall be punished by life imprisonment or aggravated imprisonment...".

Article 230 of the Penal Code stipulates that: "Anyone who deliberately kills a person with premeditation or premeditation shall be punished by death."

The act of torture that led to the death of the victim does not exist in any of my circumstances. The perpetrator did not want this result. The perpetrator did not think about the crime and how to commit it calmly and deliberately and did not resolve to implement it. He did not have the opportunity to think calmly and control himself and end up determined to commit it after turning things around. Rather, the perpetrator here intended only to torture to obtain a confession, but another unexpected and involuntary result occurred and then the killing was intentional. Nor did the circumstance of surveillance ever materialize in that crime.

Therefore, death that occurred as a result of torture fulfills the crime of simple intentional killing specified in Article 234, which is punishable by life imprisonment or aggravated imprisonment.

Third: Consequential penalties for torture in both forms

Any sentence for a felony entails ancillary penalties in accordance with the text of Article 25 of the Penal Code, which stipulates that: "Every sentence for a felony inevitably entails depriving the convict of the following rights and benefits:

1. Acceptance of any service in the government directly or as a contractor or obligor, regardless of the importance of the service.
2. Holding the rank of Nishan or Nishan.
3. Testifying before the courts about the duration of the sentence except by way of inference.
4. Managing his works related to his money and property for the period of his detention and appointing a guardian for this department approved by the court. If he is not appointed by the civil court to which his place of residence belongs in its counseling room at the request of the Public Prosecution or who has an interest in this, the court may oblige the guardian to submit a bail. The values approved or established by the court shall be subordinate to it in all matters relating to its strength.

   The convict may not dispose of his property except upon permission from the said civil court. Every obligation he undertakes, without taking into account the foregoing, shall be null and void of himself, and the funds of the convict shall be returned to him after the expiry of his sentence or his release, and he shall provide him with the values of an account for his management.
5. He remains, as of the day of his final judgment, a member of one of the Hassala councils, district councils, municipal or local councils, or any public committee.
6. Its validity is never to be a member of one of the bodies set forth in the fifth paragraph or to be an expert or witness in contracts if it is finally sentenced to life or aggravated imprisonment.

Consequential penalties shall be imposed by force of law without the need to provide for them in the operative part of the judgment of conviction.

Fourth: Supplementary penalties imposed on the perpetrator of torture

Every employee who commits a felony and is treated with clemency shall be sentenced to imprisonment, with a penalty of dismissal for a period not less than twice the period of imprisonment imposed on him. Article 27 of the Penal Code stipulates that: "Every employee who commits a felony stipulated in Title III, IV, VI and XVI of Book II of this Law shall be treated with clemency and shall be sentenced to imprisonment for a period not less than twice the period of imprisonment imposed on him."

Subsection 2: Ordering a penalty that is more severe than the penalty that is legally imposed

Article 127 of the Penal Code stipulates that: "Every public official and every person entrusted with a public service who orders the punishment of the convicted person or punishes him himself with a punishment more severe than the penalty imposed on him by law or a penalty that has not been imposed on him shall be punished with imprisonment."

Article 127 of the Penal Code punishes every public official or person entrusted with a public service who orders the punishment of the convict or punishes him himself with a punishment more severe than the penalty imposed on him by law or a penalty that has not been imposed on him.

The public official has already been identified when studying the crime stipulated in Article 126 of the Penal Code.

Subsection 3: Entering the home of one of the people without his consent

Article 128 of the Penal Code stipulates that: "If a public official or employee or any person entrusted with a public service, depending on his job, enters the house of an individual person without his consent, except in the cases indicated in the law or without taking into account the rules prescribed therein, he shall be punished by imprisonment or a fine not exceeding two hundred Egyptian pounds."

The Court of Cassation ruled that entering the house of an accused person on the basis of a void search warrant for his chest without a specialist, entails the crime stipulated in Article 128 of the Penal Code: [Whereas it was decided that the lesson in the jurisdiction of those who have the right to issue the search warrant is in fact, and Article 1 of the Attorney General's decision issued on September 16, 1968 No. 15 regarding the establishment of the technical office attached to the Office of the Attorney General specified the competencies entrusted to the head and members of that office by saying: "A technical office shall be established in the Office of the Attorney General to study, follow up and present the judicial and technical issues referred to it from us." This required that the decision to establish the aforementioned technical office did not give any of its president and members the authority to carry out any of the investigation procedures at the level of any place in the Republic. Therefore, the inspection permission issued by one of the members of the aforementioned technical office based on the transfer of the investigation report to it from the head of that office and without being specifically delegated to it by the right holder, the Attorney General, has been invalidated for its issuance by a person who is not competent to issue it. Accordingly, the inspection carried out on it is not valid for the courts to rely on it, nor on the testimony of those who conducted it, nor on what they prove in their record during this inspection of statements and confessions said to have been obtained before them from the defendants because such a certificate actually includes informing them of something they committed contrary to the law, so relying on it in issuing the judgment is based on an order that is indecent, which in itself is a crime applicable to Article 128 of the Penal Code][1060].

Subsection 4: The Use of Cruelty to People

Article 129 of the Penal Code stipulates that: "Every public official or employee and every person entrusted with a public service who uses cruelty to people based on his job so that he violates their

(1060) Appeal No. 2854 of 53rd session of March 26, 1984 A.D. 35, p. 341, rule 73.

honor or causes pain to their bodies shall be punished by imprisonment for a period not exceeding one year or a fine not exceeding two hundred Egyptian pounds" [1061].

Section 2: The civil liability of police officers and members

The officer or police officer shall only be asked about his personal mistake [1062].

The administration authority shall not refer to the officer for compensation unless the error committed by him is a personal error, as the officer shall not be liable in his relationship with the state for this compensation if what happened from it is a reformist or attachment error, and what happened from the employee shall not be considered a personal error unless his mistake is serious or is motivated by personal factors intended merely to spite, harm, or achieve self-interest for him or others[1063].

The judgment issued to determine the personal responsibility of the officer for his personal fault must invoke whether the error committed by the appellant is serious or motivated by personal factors, so that the person followed may have the right to recourse against the subordinate for the compensation awarded to him or not[1064].

Civil Liability for Torture

The crime as an unlawful act results in damage to an individual - the victim or the victim of the crime - that may be physical, material or moral damage, and this results in the right of the victim to compensation for this damage, and his means of doing so is the compensation lawsuit that he brings independently before the civil courts or before the criminal courts by association with the criminal lawsuit. Article (163) of the Civil Code stipulates that: "Every mistake that causes harm to

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([1061]) Article 129 of the Penal Code.

([1062]) The third paragraph of Article No. 47, and Article No. 77 of the Police Authority Law.

([1063]) See Appeal No. 8014 of 79 BC Session of March 20, 2012 AD 63 p. 455 Rule 70.

([1064]) The Court of Cassation ruled that: [Article 175 of the Civil Codification stipulates that "the person responsible for the work of others shall have the right of recourse to him to the extent that this third party is responsible for compensating the damage." Although the follower is entitled if the injured party returns to him and collects compensation from him for the damage caused by his wrongful act, he shall have the right of recourse to what he paid to the follower, but since the follower who uses his subordinates in carrying out his work and taking care of his interests benefits from their activity, in return, he must bear the consequences This activity is one of the obligations or responsibilities resulting from the fault of its subordinate, whenever this fault is one of the common minor mistakes that are considered one of the risks of the activity of the subordinate, the spoils of the subordinate have been concluded. It is fair to bear his fault, because it is not logical or fair - in the relationship of the subordinate to the subordinate - that the subordinate alone be responsible for any mistake that occurs from him, even if it is one of the common minor mistakes inherent in the activity and considered one of its risks, because charging the subordinate with compensation from his own financial liability involves an injustice against him, as he makes the sheep of the activity of the subordinate and fines him alone, although the former He is best able to bear the burden of responsibility for this error, and for these considerations mentioned above, it is required for the follower to refer to the subordinate for the compensation paid for the damage caused by his subordinate by his mistake that the error is serious or was motivated by personal factors intended merely to spite, harm or achieve self-interest, whether for himself or others, following the approach of the legislator in limiting the right of the follower to refer to his subordinate for compensation in the previous cases in the text of Article 58 of the State Workers Law No. 46 of 1964 corresponding to Article 78/3 of Law No. 47 of 1978 and 58/3 of Law No. 81 of 2016, and in Article 57 of Law No. 61 of 1964 regarding the police body corresponding to Article 47/3 of the subsequent Law No. 109 of 1971]. Civil Court of Cassation, Appeal No. 2597 of 84 s Hearing of 1 June 2020 (unpublished), and Appeal No. 8722 of 79 s Hearing of 20 March 2012 AD. 63 p. 455 Rule 70, Appeal No. 933 of 49 s Hearing of 30 December 1980 AD. 31 p. 2175 Rule 405.

others is obligated to compensate". Article (220) of the Criminal Procedure Law stipulates that "a civil lawsuit may be filed regardless of its value to compensate the damage arising before the criminal courts for consideration with the criminal lawsuit."

The provisions of civil liability in the crime of torturing the accused to make him confess do not differ from the general provisions in anything except in two matters:

First: The civil lawsuit arising from it shall not be time-barred.

Second: Establishing the responsibility of the state for compensation.

Subsection 1: The civil lawsuit shall not be time-barred

Article 52 of the 2014 Constitution stipulates that: "Torture in all its forms and manifestations is a crime that is not subject to statute of limitations."

Article 259 of the Code of Criminal Procedure affirms that the civil lawsuit arising from the crime of torturing the accused to induce him to confess to the statute of limitations shall not lapse. It reads as follows: "The civil lawsuit shall lapse by the lapse of the period prescribed in the Civil Code. However, the civil lawsuit arising from the crimes stipulated in the second paragraph of Article 15 of this law that occur after the date of its entry into force shall not lapse.

If the criminal lawsuit lapses after it is filed for one of its own reasons, this shall not affect the progress of the civil lawsuit filed with it.

Article 15 of the Code of Criminal Procedure stipulates that: «... As for the crimes stipulated in Articles 117, 126, 127, 282, 309 bis and 309 bis (a) and the crimes stipulated in Section I of Part II of Book II of the Penal Code, which occur after the date of entry into force of this Law. The criminal case arising therefrom shall not lapse with the lapse of the period. "

It is clear from the foregoing that the constitutional legislator and the ordinary legislator sensed the seriousness of the crime of torturing the accused to induce him to confess and the damage resulting from its violation of the physical and psychological integrity of the accused, so we exempted it from all types of statute of limitations and the forfeiture of the period, whether for criminal or civil proceedings.

Subsection 22: Civil Liability of the State for Torture

The principle is that the convict is responsible for the crime of torturing an accused person to force him to confess to compensating the victim. Article 253 of the Code of Criminal Procedure stipulates that: “A civil lawsuit for compensation of damage shall be filed against the accused of the crime if he is an adult, and against his representative if he is incapacitated. If he does not have a representative, the court shall appoint a representative in accordance with the preceding article.

Civil lawsuits may also be filed against those responsible for civil rights for the act of the accused.

The Public Prosecution may intervene with those responsible for civil rights, even if there is no civil rights claimant in the lawsuit, to sentence them for the expenses due to the government.

It is not permissible before the criminal courts to file a lawsuit for security, nor to enter into the lawsuit other than the civil rights defendant, the person responsible for civil rights, and the insurer.

However, Article No. 174 of the Civil Code recognized the responsibility of the subordinate for the acts of his subordinate, which entails the civil responsibility of the state for compensating the victim as a result of the crime committed by its employees, stipulating that:

1- The subordinate shall be responsible for the damage caused by his subordinate by his illegal work, whenever it is committed by him in the event of performing his job or because of it.
2- The bond of subordination exists, even if the subordinate is not free to choose his subordinate, whenever he has authority over him, he must control him and direct him.

The text of Article 174 of the Civil Code determines the civil liability of the follower - the state - for the actions of its subordinates - its employees - but this is limited by the availability of two conditions, namely:

First: Establishing a relationship of subordination between the subordinate and the subordinate, in which the Court of Cassation ruled that: [The relationship of subordination is established whenever there is guardianship in control and guidance so that the subordinate has actual authority to issue orders to the subordinate in the way he performs his work and in monitoring him in the implementation of these orders and holding him accountable for deviating from them] [1065].

It also ruled that: [The Rapporteur - in the Court of Cassation's judiciary - that the Civil Code, as stipulated in Article 174 thereof, stipulates that (1) the follower shall be responsible for the damage caused by his subordinate to his illegal work whenever it is committed by him in the event of performing his job or because of it. (2) The association of subordination, even if the subordinate is not free to choose his subordinate whenever he has actual authority to control and direct him, and he has based this responsibility on a presumed error on the part of the subordinate assuming that the opposite is not acceptable to prove due to his poor choice of his subordinate and his failure to control him, and that the law specifies that the scope of this responsibility is that the wrongful harmful act is committed by the subordinate in the event of performing the job or because of it, he did not intend that the responsibility be limited to the fault of the subordinate, and that the job is the direct cause of this error, or that it is necessary for it to occur, but the responsibility is also realized whenever the subordinate's act occurred from him during the performance of the job or whenever he took advantage of his job or this job helped him to perform his wrongful act or prepared him in any way that he had the opportunity to commit, whether committed by the subordinate to the interest of the subordinate or by a personal motive, and whether the motive

([1065]) Appeal No. 12205 of 84 s Hearing of 20 November 2016, Appeal No. 3608 of 71 s Hearing of 25 December 2002 AD 53 p 1278, Appeal No. 1974 of 70 s Hearing of 13 December 2001 AD 52 p 1302.

paid to him was related to the job or not, and whether the error occurred with the knowledge of the subordinate or without his knowledge[1066].

The second is that the illegal act was committed by the subordinate during and because of the service;

Hence, the victim of the crimes of torture and coercion has the right to obtain a confession to claim compensation from the administration for the damage he suffered based on the foregoing. The Court of Cassation has settled on this, and the Court of Cassation ruled that: [Decision in - the Court of Cassation - that while the administration is responsible with the employee before the victim for the compensation due to him for the damage he suffers due to the error committed by this employee on the basis of the responsibility of the follower for the actions of the subordinate stipulated in Article 174 of the Civil Code, whether this error is attached or personal, but according to what is stipulated in Article 78 of the State Civil Servants Law No. 47 of 1978 in its last paragraph and Article 47/3 of Law No. 109 of 1971 regarding the Police Authority and as disclosed in the explanatory memorandum to this latter law, this employee shall not be liable for compensation unless the error committed by him personally][1067].

(1066) Appeal No. 10820 of 75 session of 24 November 2011 (unpublished).

(1067) Appeals No. 8014, 8722 of 79 BC, session of March 20, 2012 AD 63, p. 455.

Chapter 4: External Oversight and Accountability

External or independent control of policing means control carried out, or supposed to be carried out, from outside the police apparatus, but from outside the executive apparatus of the State.

This type of oversight is independent, and can be carried out through the local community served by the police, or by national and international human rights organizations working in the field of human rights protection:

The mission of the police, according to democratic variables, has become primarily aimed at serving the community, a function that is expressed in the slogan: "The police serve the people". In order for this slogan to have a tangible impact in reality, the public must have an effective role in monitoring the performance of the police service because the local community is affected, positively and negatively, by these actions. In order for the public to exercise its control over the police, there must be:

- An independent system for receiving complaints and reports by the public without discrimination;
- be allowed to accept such complaints and communications in any manner, in person or by telephone;
- Accept complaints at the main police station or at any sub-station;
- All complaints must be accepted and recorded in a formal register, and their final course and outcome of investigation must be known;
- The security of complainants must be ensured and they should not be threatened or intimidated.

The media of all kinds can be considered one of the forms of public control over the performance of the police, despite the excessive sensitivity shown by the police in various countries to written and photographic media reports, as the police often describe those reports as exaggerated and subjective. However, impartial press reports and specialized academic writings can play a positive role in evaluating and developing the work of the police and other security agencies.

Unit 1: Independent monitoring by human rights organizations

The police aims to protect the security of society, while human rights organizations aim to ensure that the fundamental rights and freedoms of members of society are not violated. The security of society can only be achieved by preserving and preserving the rights and freedoms of its members. This link in the goal opens a wide door for cooperation and coordination between them away from the sense of hostility or targeting that has governed the relationship between human rights organizations and the police for many years.

In light of this understanding, it has become possible to strengthen the linkage and integration between the work of the police and the work of human rights organizations by: building trust, agreeing on the objectives, rules and methods of engagement and partnership, and agreeing on

communication mechanisms and review and accountability mechanisms to measure effectiveness that building trust can be done while maintaining an adequate distance between the police and human rights organizations, so that the latter can in turn continue to monitor and criticize wrong practices by the police.

Today, in almost all countries, there is a large number of non-governmental organizations working in the field of human rights, but very few of those organizations are credible and play their human rights role by adhering to professional standards based on neutrality and integrity.

These organizations differ greatly from each other, both in terms of the scope in which they work (national and international organizations) and in terms of the field of specialization (some of them work in the field of human rights issues in general, and some in the field of specific issues related to the rights of a specific group or specific topics such as, children's rights, non-discrimination, women's issues, prevention of torture, enforced disappearance, arbitrary detention, etc.).

Human rights organizations also vary in size, effectiveness, and ability to influence and mobilize domestic and international public opinion on issues related to human rights violations.

Human rights organizations, as independent and impartial organizations, play or are supposed to play a role in monitoring the performance of the police in a particular country, whether at the national level, or at the local level. When these organizations play this role, they must be based on a clear legal reference governing cases or rights that they claim have been violated by the police.

National and international human rights organizations can monitor the performance of the police in terms of their commitment - in practice - to the international and national legal framework related to human rights, whether in general, or by focusing on specific issues or rights.

For example, human rights organizations can monitor police performance and report credibly on the following issues:

- Violations that occur during arrest and detention;
- Violations related to arbitrary detention or enforced disappearance;
- Violations that occur during interrogation and investigation;
- Cases of torture and abuse of power;
- Cases related to the violation of the rights of children and women;
- Cases of discrimination in treatment;
- Issues related to the rights and guarantees of defendants in police stations or prisons... etc.

Since human rights organizations are independent and devoid of purpose, their oversight of police performance should not be limited to violations that may be committed by the police, but should also include assessing the validity of policies, laws, regulations and procedures related to policing and helping to develop and reform those policies and regulations.

Finally, when we talk about oversight and accountability for police performance, we must take into account that the police is one of the organs of the executive authority that is entrusted with

implementing the state's policy in the field of maintaining security and implementing laws. This requires - above all - that state policies be supportive of the principle of the rule of law and respect for human rights, unless it would be absurd to hold the police - as an institution - accountable for its assumed role if the policies adopted by the state do not support the principle of legality and the rule of law. Therefore, the police cannot be held accountable for implementing policies that it considers - as a security institution - to be at the core of its duty, which creates a gap of lack of understanding between those affiliated with the police and human rights organizations.

In Egypt, the National Council for Human Rights undertakes:

1. Expressing an opinion on the draft laws and regulations related to him, and his field of work;
2. Study the allegations of human rights violations and make the necessary recommendations in this regard to the competent authorities of the State;
3. Developing a national plan of action for the promotion and protection of human rights in Egypt, and proposing the means to achieve this plan;
4. Submitting proposals and recommendations to the competent authorities in everything that would protect and support human rights, and develop them better;
5. Expressing the necessary opinion, proposals and recommendations in matters brought to its attention or referred to it by the competent authorities and authorities on matters relating to the protection and promotion of human rights;
6. Receiving complaints in the field of human rights, studying them, referring what the Council deems appropriate to the competent authorities, following up on them, informing those concerned of the due process of law and assisting them in taking them, or settling and resolving them with the concerned authorities;
7. Follow up the implementation of international conventions, covenants and conventions related to human rights ratified by Egypt and submit to the concerned authorities the necessary proposals, observations and recommendations in this regard;
8. Cooperating with international organizations and bodies concerned with human rights in a way that contributes to achieving the objectives of the Council and developing their relations with it, in coordination with the Ministry of Foreign Affairs;
9. Contributing opinion in the preparation of reports that the State is obligated to submit periodically to human rights committees and organs in implementation of international conventions, and in responding to the inquiries of these bodies in this regard;
10. Coordinating with state bodies concerned with human rights, and cooperating in this field with the National Council for Women, the National Council for Childhood and Motherhood, the National Council for Persons with Disabilities, and other relevant national councils, bodies and authorities;
11. Working to spread the culture of human rights and educate citizens about them, using the institutions and agencies concerned with education, upbringing, information and education, and assisting in the preparation of programs related to teaching human rights;

12. Convening conferences, seminars and panel discussions on human rights-related topics or related events;
13. Submitting the necessary proposals to support institutional and technical capacities in the fields of human rights, including technical preparation and training to raise the efficiency of workers in state institutions related to public freedoms and economic, social and cultural rights;
14. Issuing bulletins, magazines and publications related to human rights and the objectives and competences of the Council, in accordance with the laws regulating this;
15. Issuing reports on the situation and development of human rights;
16. Visiting prisons and other places of detention, therapeutic and correctional institutions, and listening to prisoners and inmates of the aforementioned places and institutions to verify their good treatment and the extent to which they enjoy their rights. The Council prepares a report on each visit it makes, including the most important observations and recommendations with the aim of improving the conditions of prisoners and inmates of the aforementioned places and institutions. The Council submits its report to both the Attorney General and the House of Representatives;
17. Informing the Public Prosecution of any violation of the personal freedoms or the inviolability of the private life of citizens and other public rights and freedoms guaranteed by the Constitution, the law, and the international human rights conventions, covenants and instruments ratified by Egypt, based on the serious information available to the Council on the occurrence of the violation or the person of the perpetrator, while notifying the competent authorities, and the Council may intervene in the civil lawsuit, joining the injured party at his request in accordance with the provisions of the laws regulating this [1068].

([1068]) Article 3 of the Law establishing the National Council for Human Rights No. 94 of 2003.

Conclusion

In this guide, we presented the tasks and responsibilities of police officers and judicial officers. We explained that the duties of their job are not limited to confronting and controlling crimes. They also have basic tasks and functions stipulated in the Constitution and the law, which are to maintain security and order, and serve and assist members of society. These are the basic tasks entrusted to the police in most countries of the world. The police guarantees citizens reassurance and security, ensures the maintenance of public order and public morals, and adheres to the duties imposed on them by the Constitution and the law, and respects human rights and fundamental freedoms.

In order for judicial officers to carry out these tasks, they must have sufficient knowledge of the laws and regulations governing their work to be clear of the powers granted to them, as well as the duties that fall on them while carrying out their job.

They must also abide by the Constitution and the law and the obligation to ensure and preserve the fundamental rights of citizens, and their obligation to the right of the citizen to the integrity of his body and his right to life. They must also abide by the principle of innocence in their work, and that the accused is innocent until proven guilty in a fair legal trial, in which he is guaranteed the guarantees of self-defense.

Judicial officers must also be aware of the responsibility that falls on them during the exercise of their duties. They are subject to the accountability of their superiors through their disciplinary responsibility for the violations that occur from them during the exercise of their duties.

He shall also be subject to criminal liability for the acts he commits while carrying out his duties, which constitute a crime punishable by public law. The judicial officer shall also be subject to civil liability arising from the damage resulting from those acts. The Ministry of Interior is also generally accountable to the Sejm, through the means approved by the Constitution and the law, of questioning, questioning, briefing requests and other means of control.

We hope that this guide will be of assistance to the police and judicial officers in the performance of their duties, taking into account respect for human rights.