

**Declassified to Public
06 September 2012**

CODE OF CRIMINAL PROCEDURE

[Home](#) > [CODE OF CRIMINAL PROCEDURE](#)

- * Updated : 01/01/2006
 - * Date of the last known amendment : Act no. 2005-1550 of 12 December 2005. Official Journal of 13 December 2005
 - * With the participation of John Rason SPENCER QC Professor of Law, University of Cambridge Fellow of Selwyn College
- LEGIFRANCE wishes to point out that only the French versions of the texts published in the Official Journal have legal force and that the translations are provided for information purposes only.
-

- ▶ [TITLE : PRELIMINARY ARTICLE \(Art. 1-P\)](#)
- ▶ [PRELIMINARY TITLE : PUBLIC PROSECUTION AND CIVIL ACTION \(Art. 1 to 10\)](#)
- ▶ [BOOK I : EXERCISE OF PUBLIC PROSECUTION AND JUDICIAL INVESTIGATION \(Art. 12 to 230-5\)](#)
- ▶ [BOOK II : TRIAL COURTS \(Art. 231 to 566\)](#)
- ▶ [BOOK III : SPECIAL REMEDIES \(Art. 567 to 626-7\)](#)
- ▶ [BOOK IV : SOME SPECIFIC PROCEEDINGS \(Art. 627 to 706-74\)](#)
- ▶ [BOOK V : EXECUTION PROCEDURES \(Art. 707 to 800-2\)](#)
- ▶ [BOOK VI : PROVISIONS APPLICABLE TO OVERSEAS TERRITORIES, TO NEW CALEDONIA AND TO THE TERRITORIES OF MAYOTTE AND SAINT PIERRE AND MIQUELON \(Art. 804 to 902-1\)](#)

SECTION XI : CLOSING ORDERS

[Home](#) > [CODE OF CRIMINAL PROCEDURE](#)

> [BOOK I - EXERCISE OF PUBLIC PROSECUTION AND JUDICIAL INVESTIGATION](#)

> [TITLE III - INVESTIGATING JURISDICTIONS](#)

> [CHAPTER I - THE INVESTIGATING JUDGE: THE FIRST-TIER INVESTIGATING JURISDICTION](#)

> [SECTION XI - CLOSING ORDERS](#)

▶ Article 175

(Ordinance no. 58-1296 of 23 December 1958 art. 1 Official Journal of 24 December 1958 in force 1 March 1959)
(Act no. 85-1407 of 30 December 1985 art. 29 and 94; Official Journal 31 December 1985 in force 1 February 1986)
(Act no. 89-461 of 6 July 1989 art. 9 Official Journal of 8 July 1989)
(Act no. 93-2 of 4 January 1993 art 72 & 224; Official Journal 5 January 1993, in force 1 March 1993)
(Act no. 93-1013 of 24 August 5 1993 art 24; Official Journal 25 August 1993, in force 2 September 1993)
(Act no. 2000-516 of 15 June 2000 art 131; Official Journal 16 June 2000, in force 1 January 2001)
(Act no. 2004-204 of 9 March 2004 art.95 X Official Journal of 10 March 2004, in force 1 October 2004)

As soon as he considers the investigation is over, the investigating judge informs the parties and their advocates of this, either verbally with a signature entered into the case file or by recorded delivery letter. Where the person is detained this notice may also be served by the prison governor, who immediately sends the original receipt or its copy signed by the person concerned to the investigating judge.

Upon the expiry of twenty days from the sending of the notice provided for by the previous paragraph, the parties are no longer competent to file an application or to make a request on the basis of articles 81 (ninth paragraph), 82-1, 156 (first paragraph), or 173 (third paragraph). The parties may, in the presence of their advocate or where the advocate has been summoned in due form, waive their right to invoke this time limit.

The investigating judge sends the case file to the district prosecutor when this period has expired. The latter sends his submissions within one month if a person under judicial examination is detained, and within three months in other cases.

The investigating judge who does not receive the prosecution's submissions within the prescribed time limit may make the closing order.

The provisions of the first paragraph and, as requests for nullification the second paragraph, are also applicable to the assisted witnesses .

▶ Article 175-1

(Act no. 85-1303 of 10 December 1985 art 21 and 42; Official Journal 11 December 1985 in force 1 March 1988)
(Act no. 87-1062 of 30 December 1987 art 23; Official Journal 31 December 1987, in force 1 September 1989)
(Act no. 93-2 of 4 January 1993 art 41; Official Journal 5 January 1993, in force 1 March 1993)
(Act no. 2000-516 of 15 June 2000 art 74; Official Journal 16 June 2000, in force 1 January 2001)
(Act no. 2000-1354 of 30 December 2000 art. 25 Official Journal of 31 December 2000)

A person under judicial examination, an assisted witness or a civil party may, at the expiry of the time limit indicated to him in accordance with paragraph 8 of article 116 or the second paragraph of article 89-1, which runs respectively from the date of the placement under judicial examination, the first hearing or when civil party was officially constituted, ask the investigating judge, in accordance with the conditions laid down by the tenth paragraph of article 81, to bring the case before the court of trial by transfer or indictment, or to declare that there is no case to answer. This includes proceeding, where appropriate, to a severance. This request may also be formed when no investigating act has been carried out for a period of four months.

Within a month of receiving this request, the investigating judge must grant it or declare, in a reasoned decision, that there are grounds for seeking further information. In the first case, he proceeds according to the conditions set out in the present section. In the second case, or if the judge has failed to rule within the allotted month, the person under judicial examination, the assisted witness or the civil party may transfer the case to the president of the investigating chamber, in accordance with article 207-1. Seising the court in such a way must be done within the five days of notification of the judge's decision, or at the end of a one-month time limit.

Where the investigating judge has declared that he is continuing with his investigation, a new application may be made at the end of a six month period.

The provisions of the present article are not applicable after the notice provided for in the first paragraph of article 175 has been sent.

▶ Article 175-2

(Act no. 85-1303 of 10 December 1985 art 21 and 42; Official Journal 11 December 1985 in force 1 March 1988)
(Act no. 87-1062 of 30 December 1987 art 23; Official Journal 31 December 1987, in force 1 September 1989)
(Act no. 2000-516 of 15 June 2000 art 74; Official Journal 16 June 2000, in force 1 January 2001)

In all cases, the length of the investigation must not exceed a reasonable length of time, with consideration to the seriousness of the charges brought against the person under judicial examination, the complexity of the investigations needed to establish the truth, and the exercise of the rights of the defence.

If, two years after the investigation was opened, it has not been concluded, the investigating judge delivers a reasoned judgment, with reference to the criteria provided for in the previous paragraph, explaining the reasons for the length of the proceedings, including indications justifying the continuation of the investigation and specifying the prospects for completion. This ruling is communicated to the president of the investigating chamber, who can, if he requests it, transfer the case to this court, in accordance with the provisions of article 221-1.

The order provided for in the previous paragraph must be renewed every six months.

▶ Article 176

(Act no. 93-2 of 4 January 1993 art 42; Official Journal 5 January 1993, in force 1 March 1993)
(Act no. 93-1013 of 24 August 1993 art 6; Official Journal 25 August 1993 in force 2 September 1993)

The investigating judge examines whether there exist against the person under judicial examination charges which constitute an offence, of which he determines the legal qualification.

▶ Article 177

(Act no. 85-1407 of 30 December 1985 art. 5, 87 and 94; Official Journal 31 December 1985 in force 1 February 1986)

(Act no. 87-962 of 30 November 1987 Article 11 Official Journal of 1 December 1987)
(Act no. 93-2 of 4 January 1993 art 43; Official Journal 5 January 1993, in force 1 March 1993)
(Act no. 93-1013 of 24 August 1993 art 15; Official Journal 25 August 1993 in force 2 September 1993)
(Act no. 2000-516 of 15 June 2000 art 83; Official Journal 16 June 2000, in force 1 January 2001)
(Act no. 2004-204 of 9 March 2004 art.122 Official Journal of 10 March 2004, in force 1 October 2004)

If the investigating judge considers that the facts do not constitute a felony, a misdemeanour, or a petty offence, or if the perpetrator has remained unidentified, or if there are no sufficient charges against the person under judicial examination, he makes an order ruling that there is no cause to prosecute.

Where the discharge order is motivated by the existence of one of the grounds criminal irresponsibility provided for by the first paragraph of article 122-1, articles 122-2, 122-3, 122-4, 122-5 and 122-7 of the Criminal Code or by the death of the person under judicial examination, the order states whether there is sufficient evidence to prove that the person concerned did commit the offences he is accused of.

The persons under judicial examination who are in pre-trial detention are released. The order puts an end to the judicial supervision.

The investigating judge rules by the same order on the restitution of any articles placed under judicial safekeeping. He may refuse restitution where this presents a danger for persons or property. The decision made in respect of restitution may be referred by any person with an interest to the investigating chamber under the conditions and pursuant to the rules provided for in article 99.

► **Article 177-1**

(Act no. 93-2 of 4 January 1993 art 48; Official Journal 5 January 1993, in force 1 March 1993)
(Act no. 93-1013 of 24 August 1993 art 36; Official Journal 25 August 1993 in force 2 September 1993)
(Act no. 2000-516 of 15 June 2000 art 96; Official Journal 16 June 2000, in force 1 January 2001)
(Act no. 2004-575 of 21 June 2004 art. 2 IV Official Journal of 22 June 2004)

At the request of the person concerned or with his agreement, or on his own motion, or at the request of the public prosecutor, the investigating judge may order either the partial or full publication of his discharge order, or the insertion of a communiqué informing the public of the grounds and enacting terms of the order in one or more newspapers, periodicals or electronic public communication services he chooses.

Where appropriate, he determines which extracts from the decision will be published or fixes the wording of the communiqué to be inserted.

If the judge does not grant the request of the person concerned he must provide a reasoned decision, which may be subject to appeal before the investigating chamber.

► **Article 177-2**

(Act no. 2000-516 of 15 June 2000 Article 87; Official Journal of 16 June 2000 in force 1 January 2001)
(Ordinance no. 2000-916 of 19 September 2000; Article 3 Official Journal 22 September 2000 in force 1 January 2002)

Where he delivers a discharge order begun by the constitution of a civil party, the judge, where he feels that the constitution as civil party was excessive or dilatory, may, at the request of the district prosecutor and in a reasoned decision, impose a civil fine not in excess of €15,000 on the civil party.

This decision may only be made after twenty days have elapsed from when the district prosecutor's remarks were sent to the civil party and his advocate, in a recorded delivery letter or by a fax with acknowledgement of receipt, in order to allow the party concerned to send his written response to the investigating judge.

This decision may be appealed against by the civil party under the same conditions as the discharge order.

If the investigating judge does not follow the district prosecutor's requisitions, the latter may lodge an appeal under the same conditions.

► **Article 177-3**

(Inserted by Law no. 2002-1138 of 9 September 2002 Article 39 Official Journal of 10 September 2002)

Where the civil party is a legal person, the civil fine provided for by article 177-2 may be imposed against its legal representative, if the dishonesty of the latter is established.

► **ARTICLE 178**

(Ordinance no. 58-1296 of 23 December 1958 art. 1 Official Journal of 24 December 1958 in force 1 March 1959)
(Act no. 70-643 of 17 July 1970 art. 4 Official Journal of 19 July 1970)
(Act no. 93-2 of 4 January 1993 art 73; Official Journal 5 January 1993, in force 1 March 1993)
(Act no. 93-1013 of 24 August 1993 art 37; Official Journal 25 August 1993, in force 2 September 1993)
(Act no. 2005-47 of 26 January 2005 article 9 IX Official Journal of 27 January 2005 in force on 1 April 2005)

If the judge considers the facts amount to a petty offence, he makes an order referring the case to the police court or the neighbourhood court.

When it becomes final, this order wipes out all procedural defects, if there were any.

NOTE: Act no. 2005-47, article 11: These provisions come into force on the first day of the third month following their publication. Nevertheless, any cases of which the police court or the neighbourhood court were lawfully seised at that date remain within the jurisdiction of those courts.

► **Article 179**

(Act no. 70-643 of 14 July 1970 art. 4 Official Journal of 19 July 1970)
(Act no. 75-701 of 6 August 1975 Article 3 Official Journal of 7 August 1975)
(Act no. 87-1062 of 30 December 1987 Article 8 Official Journal 31 December 1987, in force on 1 March 1998)
(Act no. 93-2 of 4 January 1993 art 74; Official Journal 5 January 1993, in force 1 March 1993)
(Act no. 93-1013 of 24 August 1993 art 37; Official Journal 25 August 1993, in force 2 September 1993)
(Act no. 96-1235 of 30 December 1996 art. 10 Official Journal of 1 January 1997 in force 31 March 1997)
(Act no. 2000-516 of 15 June 2000 art. 76 Official Journal of 16 June 2000)
(Act no. 2000-1354 of 30 December 2000 art. 15 Official Journal of 31 December 2000)
(Act no. 2004-204 of 9 March 2004 art.100 II Official Journal of 10 March 2004)

If the judge considers the facts amount to a misdemeanour, he makes an order referring the case to the correctional court. This order also states, if this be so, that the accused benefits from the provisions of article 132-78 of the Criminal Code.

The closing order puts an end to any pre-trial detention or judicial supervision. If it has been issued, the arrest warrant remains enforceable. If a summons or a warrant to search for a person has been issued it ceases to be enforceable, but without prejudice to the power of the investigating judge to issue an arrest warrant against the defendant.

However, the investigating judge may keep the defendant detained or under judicial supervision until he appears before the court, by making a separate and specially reasoned order. In the event of an extension of the pre-trial detention, the elements of the case expressly stated in the order must justify this special measure by the need to prevent pressure on the witnesses or victims, to prevent the renewal of the offence, to protect the defendant or to ensure he is kept at the disposal of justice. The same order may also be made where the offence, because of its seriousness, the circumstances of its commission or the importance of the harm it caused, has created an exceptional and persistent disturbance of public order which can only be ended by the extension of pre-trial detention.

The detained defendant is immediately released if the correctional court has not begun to hear the case on its merits at the end of a period of two months from the date of the transfer order.

However, if the hearing on the merits of the case cannot take place before the expiry of this time limit, the court may, in exceptional cases, order the extension of the detention for a new six month period, in a decision recording the factual and legal reasons preventing the trial of the case. The defendant has the right to appear in person if either he or his advocate requests this. This decision may be renewed once only, in the same manner. If at the end of this new extension period the defendant has still not been tried, he is immediately set free.

When it becomes final, this order mentioned in paragraph one wipes out all procedural defects, if there were any.

► **ARTICLE 179-1**

*(Inserted by Act no. 2004-204 of 9 March 2004 art.123 I Official Journal of 10 March 2004, in force 1 October 2004)
(Act no. 2005-47 of 26 January 2005 article 9 X Official Journal of 27 January 2005 in force on 1 April 2005)*

Any ruling summoning a person under judicial examination to appear before the neighbourhood court, a police court or a correctional court instructs this person that the public prosecutor must be informed, until the final disposal of the case, of any change of address from that declared at the time he was placed under judicial examination. This must be done by means of a recorded delivery letter with request for acknowledgement of receipt. The ruling also informs him that any summons or notification delivered to his last known address is deemed to have been made to him in person.

NOTE: Act no. 2005-47, article 11: These provisions come into force on the first day of the third month following their publication. Nevertheless, any cases of which the police court or the neighbourhood court were lawfully seised at that date remain within the jurisdiction of those courts.

► **ARTICLE 180**

*(Ordinance no. 58-1296 of 23 December 1958 art. 1 Official Journal of 24 December 1958 in force 1 March 1959)
(Act no. 2005-47 of 26 January 2005 article 9 XI Official Journal of 27 January 2005 in force on 1 April 2005)*

Where a reference is made either to the neighbourhood court, to the police court or to the correctional court, the investigating judge transmits the case file with his order to the district prosecutor. The latter is required to send it forthwith to the office of the court which is due to decide the case.

If the correctional court is seised of the case, the district prosecutor must have the defendant summoned for one of the next hearings, observing the time limits for summoning set out in the present Code.

NOTE: Act no. 2005-47, article 11: These provisions come into force on the first day of the third month following their publication. Nevertheless, any cases of which the police court or the neighbourhood court were lawfully seised at that date remain within the jurisdiction of those courts.

► **Article 181**

*(Act no. 70-643 of 14 July 1970 art. 4 Official Journal of 19 July 1970)
(Act no. 93-2 of 4 January 1993 art 75; Official Journal 5 January 1993, in force 1 March 1993)
(Act no. 93-1013 of 24 August 5 1993 art 15; Official Journal 25 August 1993, in force 2 September 1993)
(Act no. 2000-516 of 15 June 2000 art. 82 Official Journal of 16 June 2000)
(Act no. 2004-204 of 9 March 2004 art.99 I Official Journal of 10 March 2004)*

If the investigating judge considers that the charges accepted against person under judicial examination constitute an offence qualified as a felony by the law, he orders their indictment before the assize court.

He may also seise the same court with related offences.

The indictment order contains, under pain of nullity, a presentation and the legal qualification of the matters to which the accusation relates, and specifies the accused's identity. It also states, if appropriate, that the accused benefits from the provisions of article 132-78 of the Criminal Code.

Where it has become final, the indictment order wipes out procedural errors, if there were any.

Any judicial supervision to which the accused is subjected remains fully in force.

Any pre-trial detention or judicial supervision of persons sent for trial for a related misdemeanour comes to an end, unless the provisions of the third paragraph of article 179 are applied. The time limit provided for by the fourth paragraph of article 179 is then extended to six months.

If the accused is placed in pre-trial detention, the committal order issued against him continues in force and the person concerned remains in detention until he is tried by the assize court, subject to the provisions of the two following paragraphs and article 148-1. If it has been issued, any arrest warrant remains in force, without prejudice for the investigating judge to issue an arrest warrant against the accused.

An accused person who is detained for offences for which he is called to appear before the assize court is immediately set free if he has not appeared before the court either at the end of year from the date when his indictment order became final, if he was detained at that time, or from the date when he was finally placed in pre-trial detention.

However, if the hearing on the merits of the case cannot commence before the expiry of this time limit, the investigating chamber may, exceptionally, order the extension of the pre-trial detention for a further six-month period, in a decision recording the factual and legal reasons preventing the trial of the case. The accused has the right to appear in person if either he or his advocate requests this. This decision may be renewed once only, in the same manner. If at the end of this new extension period the accused has still not appeared before the assize court at the end of this new extension, he is immediately set free.

The investigating judge sends the case file with his ruling to the district prosecutor. The district prosecutor is obliged to send them immediately to the court office of the assize court.

The exhibits, of which an inventory has been made, are sent to the court office of the assize court if the latter has its seat within a court other than that of the investigating judge.

► **Article 182**

*(Act no. 81-82 of 2 February 1981 art. 53 Official Journal of 3 February 1981)
(Act no. 99-515 of 23 June 1999 Article 15 Official Journal of 24 June 1999)*

Orders carrying a partial discharge may occur in the course of the investigation.

Orders for a partial reference or a partial transmission of documents may be made in the same conditions, where the charges ascertained in respect of one or more of the offences of which the investigating judge is seized appear to be sufficient.

Persons who have been the subject of a partial transfer order or the partial transmission of documents, and who do not remain under judicial examination for other charges, are heard as assisted witnesses. It is the same where a judicial investigation is severed.

► **Article 183**

(Ordinance no. 60-529 of 4 June 1960 Article 2 Official Journal of 8 June 1960)

(Act no. 70-643 of 14 July 1970 art. 4 Official Journal of 19 July 1970)

(Act no. 72-1226 of 29 December 1972 Article 31 Official Journal of 30 December 1972)

(Act no. 84-576 of 9 July 1984 art. 13 and 19 Official Journal of 10 July 1984)

(Act no. 85-1407 of 30 December 1985 art. 30 & 94 Official Journal of 31 July 1985 in force 1 February 1986)

(Act no. 85-1407 of 30 December 1985 art. 87-i-2 Official Journal of 31 July 1985 in force 1 February 1986)

(Act no. 87-1062 of 30 December 1987 Article 8 Official Journal 31 December 1987, in force on 1 March 1998)

(Act no. 89-461 of 6 July 1989 art. 21 Official Journal of 8 July 1989 in force 1 December 1989)

(Act no. 89-461 of 6 July 1989 art. 10 Official Journal of 8 July 1989 in force 1 December 1989)

(Act no. 93-2 of 4 January 1993 art 190; Official Journal 5 January 1993, in force 1 March 1993)

(Act no. 93-2 of 4 January 1993 art 190 & 224; Official Journal 5 January 1993, in force 1 March 1993)

(Act no. 93-1013 of 24 August 5 1993 art 14; Official Journal 25 August 1993, in force 2 September 1993)

(Act no. 2000-516 of 15 June 2000 art. 84 & 131 Official Journal of 16 June 2000)

(Act no. 2002-1138 of 9 September 2002 Article 38 Official Journal of 10 September 2002)

The person under judicial examination and the assisted witness are notified of the closing order, and the civil party is informed of the referral order or indictment order. The notification is made within the shortest time possible, either verbally with a signature entered into the case file or by recorded delivery letter.

Subject to article 137-3, second paragraph, the decisions liable to be appealed against by a party to the proceedings or by a third party in accordance with articles 99, 186 and 186-1 are notified to them within the shortest time possible either verbally with a signature entered into the case file or by recorded delivery letter. If the person under judicial examination is detained, they may also be brought to his knowledge by the prison governor, who immediately sends the original or a copy of the receipt signed by the person to the investigating judge. In every case a copy of the decision is given to the person concerned.

Any service of a document to a party by recorded delivery letter, sent to the person concerned's last registered address, is deemed to have been made in person.

The orders mentioned in the first and second paragraphs of the present article which must be brought to the knowledge of the parties are brought to the knowledge of their advocates at the same time and in the same manner.

Notices addressed to the district prosecutor are sent to him by any means available. Where the investigating judge makes an order which is not in conformity with the district prosecutor's submissions, notice of this is sent to the prosecutor by the clerk.

In all cases, the clerk records in the case file the type and the date of the steps made pursuant to the present article and the forms used to carry them out.

► **Article 184**

(Act no. 93-2 of 4 January 1993 art 191; Official Journal 5 January 1993, in force 1 March 1993)

The orders made by the investigating judge in accordance with the present section include the surname, first names, date and place of birth, domicile and profession of the person under judicial examination. They state the legal qualification of the actions he is charged with and state precisely the grounds for which there is or is not sufficient evidence against him.