Linette A. Gibs

Subject: FW: FW: Parlementsvragen Augustus 12 WvSv - Boek 2 Bp en WvSR
Attachments: DRAFT National Ordinance to amend the Criminal Code.pdf; DRAFT National Ordinance to amend Book 2 of the Civil Code.pdf; Draft National Ordinance new Criminal Procedures Code.pdf

From: Nancy R. Guishard-Joubert
Sent: Wednesday, September 11, 2019 10:06 PM

From: Ursula, Russell [mailto:Russell.Ursula@sintmaartengov.org]
Sent: Wednesday, September 11, 2019 4:52 PM
To: Nancy R. Guishard-Joubert
Cc: Julien Ulant Vrutaal-Panneflek; de Weever, Cornelius; Martina, Eunicio; Vidjai Jusia
Subject: FW: FW: Parlementsvragen Augustus 12 WvSv - Boek 2 Bp en WvSR

Mrs. Joubert,

Please see attached as discussed.

Regards,
Russell

MINISTERIE VAN JUSTITIE Sint Maarten
MINISTRY OF JUSTICE Sint Maarten

Russell Ursula LL.M – MPA

Secretary General Ministry of Justice

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National Ordinance of the
amending the Criminal Code in connection with the need to implement a number of urgent international obligations

DRAFT

IN THE NAME OF THE KING!

The Governor of Sint Maarten,

Having taken into consideration:

that, in connection with a number of urgent international obligations, in particular implementation of the Recommendations of the Financial Action Task Force, as revised by the most recent amendment in 2015, it is necessary to amend the Criminal Code;

that it is also desirable to amend the Criminal Code based on the recommendations in the Trafficking in Persons Report 2016 of the United States Department of State;

Having heard the Council of Advice, and in consultation with Parliament, has adopted the national ordinance below:

Article I

The Criminal Code is amended as follows:

A

Article 1:4, under n, will read:

n. a terrorist offence or one of the criminal offences described in articles 2:33, 2:35, 2:41, 2:42, 2:79, 2:98, 2:102, 2:103, 2:105, 2:107, 2:109, 2:110, 2:111a, 2:112, 2:114, 2:116, 2:117, 2:119, 2:121, 2:124a, 2:124b, 2:254a, 2:255, 2:259, 2:260, 2:262, 2:334, 2:336, 2:338, 2:340, 2:370, 2:371 and 2:373, insofar as the offence is covered by the descriptions in Article 2 of the International Convention for the Suppression of the Financing of Terrorism, established in New York on 9 December 1999 (Treaty Series 2000, 12), either the offence is committed against a Dutch national, or the suspect is located in Sint Maarten;

B

Article 1:54, paragraph 7, will read:

7. In the event of conviction of a terrorist offence or the conviction of a legal entity then, if the fine category designated for the offence does not allow for an appropriate punishment, a fine of up to at most the amount of the next higher category may be imposed. If a fine of the sixth category may be imposed for the offence and this fine category does not allow for an appropriate punishment, a fine of up to at most ten per cent of the annual turnover of the legal entity in the financial year prior to the decision may be imposed.

C

Article 1:143 is amended as follows:

1. In paragraph 1, after "of a" will be inserted: punishable.
2. A paragraph is added, reading:

4. Civil or administrative measures do not exclude application of paragraph 1 vis-a-vis natural persons, legal entitles, groups of natural persons or legal entitles, and organisations. If a final judgment has been handed down in a disciplinary or administrative case, the judge in the criminal case shall take the sanction imposed in that case into account insofar as it has been enforced.

D

After article 1:195, an article will be inserted which will read as follows:

Article 1:195a

Information, the secrecy of which is vital for the Kingdom or Sint Maarten, also refers to an item of data belonging to or derived from data, devices or materials or investigations conducted with the aid thereof or working methods used in relation to the secrecy in respect of nuclear material as referred to in the Convention on the Physical Protection of Nuclear Material (Treaty Series 1981, 7).

E

Article 1:202 will read:

Article 1:202

'Terrorist offence' refers to:

a. any criminal offence, designated a punishable offence in whatever legislation, committed with terrorist intent;
b. as well as the conduct referred to in articles 2:54 and 2:408.

F

Article 2:54 is amended as follows:

1. The designation ‘1.’ will be placed before the wording of the article.
2. In the new first paragraph, "custodial sentence of at most eight years" is replaced by: custodial sentence of at most fifteen years.
3. A paragraph is added, reading:

2. For the purposes of paragraph 1, 'funds' refers to all goods and all proprietary rights, including money.

G

Article 2:55 is deleted.

H

In article 2:56, "one of the criminal offences described in articles 2:54 and 2:55" is replaced by: a criminal offence described in article 2:54.

I

Article 1:204 will read:

Article 1:204

A 'crime in preparation for or to facilitate a terrorist offence' refers to each of the criminal offences described in articles 2:49, paragraph 2, 2:50, paragraph 3, 2:54, 2:163, paragraph 3, 2:184, paragraph 3, 2:255, paragraph 4, 2:289, part d, 2:291, paragraph 2, in conjunction with article 2:289, part d, 2:294, paragraph 3 in conjunction with articles 2:291, paragraph 2, and 2:289, part d, 2:295, paragraph 2, 2:300, 2:305, paragraph 2, 2:343 and 2:408.

J

After article 2:111, two articles will be inserted which will read as follows:

Article 2:111a

1. Any person wilfully endangering air traffic or shipping will be penalised with a custodial sentence of at most fifteen years or a fine of the fifth category.
2. If the offence results in the death of another person, the guilty person will be penalised with life imprisonment or a custodial sentence of at most thirty years or a fine of the fifth category.

Article 2:111b

1. Any person who by negligence or carelessness is responsible for endangering air traffic or shipping will be penalised with a custodial sentence of at most one year or a fine of the fifth category.
2. If the offence results in the death of another person, the guilty person will be penalised with a custodial sentence of at most two years or a fine of the fourth category.
3. If responsibility for the offence is attributable to gross negligence, the prison sentence for the offence will be increased by one half and the fine stipulated for the offence will be increased to the fifth category.

K

After article 2:124, two articles will be inserted which will read as follows:

Article 2:124a

Any person who:

a. transports, holds, applies, brings or causes to be brought into or outside the territory of the Kingdom or Sint Maarten, makes available, or obtains or discards or disposes of nuclear material as referred to in the Convention on the Physical Protection of Nuclear Material (Treaty Series 1981, 7);
b. establishes, puts into operation or runs, or alters a facility in which nuclear energy can be released, fissile materials can be produced, prepared or processed, or where fissile materials are stored;
c. installs or keeps installed therein equipment suitable for propelling a vessel or other means of transport by means of nuclear energy, or puts into operation, runs or alters such equipment installed therein;
d. prepares, transports, holds, applies, brings or causes to be brought into or outside the territory of the Kingdom or Sint Maarten, makes available, or obtains or discards or disposes of radioactive substances;
e. produces, transports, holds, applies, brings or causes to be brought into or outside the territory of the Kingdom or Sint Maarten, makes available, or obtains or discards or disposes of equipment that emits ionising radiation;

with terrorist intent, or with the intention of preparing or facilitating a terrorist offence, will be penalised with a custodial sentence of at most fifteen years or a fine of the fifth category.

Article 2:124b

1. Any person wilfully acting contrary to permits authorising the owner to transport, hold, bring or cause to be brought into or outside the territory of the Kingdom or Sint Maarten, or discard or dispose of nuclear material, as referred to in the Convention on the Physical Protection of Nuclear Material (Treaty Series 1981, 7), will, in the event there would be a risk of serious injury to any person or of substantial damage to property or to the environment from such action, be penalised with a custodial sentence of at most twelve years or a fine of the fifth category.
2. Any person wilfully acting contrary to permits authorising the owner to transport, hold, bring or cause to be brought into or outside the territory of the Kingdom or Sint Maarten, or discard or dispose of nuclear material, as referred to in the Convention on the Physical Protection of Nuclear Material (Treaty Series 1981, 7), will, in the event there would be a risk of threat to the life of any person from such action and the offence results in the death of another person, be penalised with life imprisonment or a custodial sentence of at most thirty years or a fine of the fifth category.

L

In article 2:127, “and 2:123” is replaced by: ", 2:123, 2:124a and 2:124b”

M

Article 2:239 will read:

Article 2:239

1. The following will be convicted of human trafficking and penalised with a custodial sentence of at most twelve years or a fine of the fifth category:

a. any person who recruits, transports, transfers, harbours or receives another person, by means of coercion, force or some other act or by means of the threat of force or some other act, by means of extortion, of fraud, of deception or the abuse of power or dominance arising from factual circumstances, of the abuse of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploiting that person or removing his/her organs;
b. any person who recruits, transports, transfers, harbours or receives another person, including the exchange or transfer of control over that person, for the purpose of exploiting that person or removing his/her organs, while that person is under 18 years of age;
c. any person who recruits, takes with them or abducts another person with the intention of inducing that person in another country to make himself/herself available for the performance of sexual acts with or for a third party against payment;
d. any person who through any of the means referred to in part a compels or induces another person to make himself/herself available for the performance of work or services or to make his/her organs available, or under the circumstances referred to in part a undertakes any action that he knows or may reasonably suspect involves that person making himself/herself available for the performance of work or services or making his/her organs available;
e. any person who induces another person to make himself/herself available for the performance of sexual acts with or for a third party against payment or to make his/her organs available against payment, or undertakes any action in relation to another person that he knows or may reasonably suspect involves that person making himself/herself available for the performance of such acts or making his/her organs available against payment, while that person is under 18 years of age;
f. any person who intentionally benefits from the exploitation of another person;
g. any person who intentionally benefits from the removal of organs from another person, while he knows or may reasonably suspect that that person's organs were removed under the circumstances referred to in part a;
h. any person who intentionally benefits from sexual acts performed by another person with or for a third party against payment or from the removal of that person's organs against payment, while that person is under 18 years of age;
i. any person who through any of the means referred to in part a compels or induces another person to allow him to obtain gain from the proceeds from that person's sexual acts with or for a third party or from the removal of his/her organs.

2. Exploitation shall include, at a minimum, the exploitation of the prostitution of others, other forms of sexual exploitation, forced or compulsory labour or services, including begging, slavery or practices similar to slavery, servitude and exploitation of criminal activities.

3. The guilty person will be penalised with a custodial sentence of at most fifteen years or a fine of the fifth category, if:
   a. the offences described in paragraph 1 are committed by two or more persons acting in concert;
   b. the person against whom the offences described in paragraph 1 are committed is a person under 18 years of age or another person who is subjected to abuse of a position of vulnerability.
   c. the offences described in paragraph 1 are preceded, accompanied or followed by violence.
4. If any of the offences described in paragraph 1 results in serious physical injury or is likely to endanger the life of another person, a term of imprisonment of not more than eighteen years or a fine of the fifth category shall be imposed.
5. If any of the offences described in paragraph 1 results in death, life imprisonment or a custodial sentence of at most thirty years or a fine of the fifth category shall be imposed.
6. A position of vulnerability also includes a situation in which a person has no real and acceptable alternative but to submit to the abuse.
7. Article 2.211 shall apply analogously.

N

After article 2:254, an article will be inserted which will read as follows:

Article 2:254a

Any person who unlawfully compels any other person through the threat of theft or robbery, or fraudulent obtaining of nuclear material as referred to in the Convention on the Physical Protection of Nuclear Material (Treaty Series 1981, 7) against that other person or third parties to do or refrain from doing something or to tolerate something, will be penalised with a custodial sentence of at most two years or a fine of the fourth category.

O

Article 2:404 is amended as follows:

1. In paragraph 1, "six years" will be replaced by: eight years.
2. In paragraph 2, after "proprietary rights" will be added: , including money.

P

In article 2:406, after "proprietary rights" will be added: , including money.

Q

After Title XXXI, a title will be inserted which will read as follows:

TITLE XXXII
TERRORIST FINANCING

Article 2:408

1. The following will be convicted of terrorist financing and penalised with a custodial sentence of at most eighteen years or a fine of the fifth category:
   a. any person who intentionally provides himself/herself or another party with resources or information or intentionally collects, acquires, possesses or provides to another party objects that, wholly or partly, directly or indirectly, lawfully or unlawfully, are intended to fund the commission of a terrorist offence or a criminal offence in preparation of or for the facilitation of a terrorist offence;
   b. any person who intentionally provides himself/herself or another party with resources or information or intentionally collects, acquires, possesses or provides to another party objects that, wholly or partly, directly or indirectly, lawfully or unlawfully, are intended to fund the commission of one of the criminal offences described in:
      - articles 2:33 to 2:35, inclusive, and also article 2:255, if that criminal offence is committed against an internationally protected person or his protected property;
      - articles 2:105, 2:121, 2:124a, 2:124b and 2:254a, and also articles 2:79, 2:98, 2:184, 2:288 to 2:291, inclusive, 2:294, 2:295, 2:298, 2:299 and 2:305, if the offence concerns wilful unlawful acts with respect to nuclear material;
      - articles 2:109, 2:110, 2:112, 2:114, 2:250, 2:340, 2:370 to 2:373, inclusive;
      - articles 2:1 to 2:5, inclusive, 2:24, 2:33, 2:41, 2:42, 2:79, 2:98, 2:102, 2:103, 2:105, 2:107, 2:111a, 2:117, 2:119, 2:259, 2:260 and 2:262, if it concerns offences that are committed through intentionally causing the unlawful discharge or detonation of an explosive or other object, or causing the release, dispersal or action of an object, resulting in a risk of threat to the life of any person or serious physical injury to another person or considerable material damage.
   c. any person who wilfully collects lawfully or unlawfully obtained funds, directly or indirectly, for themselves or for another party for financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.
2. For the purposes of the first paragraph, 'objects' refers to money and to all goods and all proprietary rights, by whatever means these were acquired, and the documents and data carriers, in any form or capacity whatsoever, showing the ownership or entitlement to the money, the goods or the proprietary rights, including but not confined to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, bills of exchange and letters of credit.

Article 2:409
In the event of conviction of a criminal offence described in article 2:408, the deprivation of rights referred to in article 1:64, paragraph 1 may be imposed.

Article II

In view of its urgent importance as referred to in article 127, third paragraph of the Constitution, this National Ordinance shall come into force with effect from the first day after the date of issue of the Official Publication in which it is published.

This National Ordinance shall be published, along with the Explanatory Memorandum, in the
Official Publication.

Issued in Philipsburg,
The Governor of Sint Maarten

The Minister of Justice
dated

National Ordinance, of the
draft amending Book 2 of the Civil Code (National Ordinance Revising Book 2 of the Civil Code)

DRAFT

IN THE NAME OF THE KING!

The Governor of Sint Maarten,

Having taken into consideration:

that, having regard also to the civil law developments in the Kingdom and the concordance obligation pursuant to article 39, paragraph 1 of the Charter for the Kingdom of the Netherlands, it is desirable to revise Book 2 of the Civil Code;

that, in view of the number of amendments, it is desirable in the interest of clarity to rewrite Book 2 of the Civil Code in full;

Having heard the Council of Advice, and in consultation with Parliament,
has adopted the national ordinance below:

Article I

Book 2 of the Civil Code will read:

Book 2 LEGAL ENTITIES

Title 1 General provisions

Article 1

1. The provisions of this title shall apply in respect of the legal entities regulated in separate legal forms in this Book: foundations, private foundations, associations, cooperatives, mutual insurance association, public limited liability companies and private limited liability companies.
2. Article 3 shall also apply in respect of other legal forms that are to constitute legal entities. To the extent that the contrary does not follow from the law and the nature of the legal entity does not oppose this, the remaining provisions of this title may apply analogously in respect of such other legal entities.

3. The provisions of this Book may only be deviated from in the articles of association, in a corporate agreement or in a set of regulations, and only insofar as appearing from the law. The articles of association, a corporate agreement and a set of regulations shall successively constitute a subordinate regulation, in that order.
4. Provisions of a subordinate regulation shall be invalid insofar as they result in consequences that are contrary to or not consistent with a higher regulation.
5. In this Book, articles of association shall mean: a document explicitly designated as "articles of association" that contains the fundamental organisational rules of the legal entity.
6. In this Book, a corporate agreement shall mean: an agreement as referred to in article 127, paragraph 3, and article 227, paragraph 3.
7. In this Book, a set of regulations shall mean: a document explicitly designated as "set of regulations" adopted by a body of the legal entity pursuant to the law or the articles of association that contains detailed organisational rules of the legal entity.

Article 2

1. A legal entity shall not be formed in the absence of a deed signed by a civil-law notary, insofar as required by law for the formation. The absence of the force of authenticity of a deed signed by a civil-law notary shall not impede the formation of the legal entity, unless it concerns a last will and testament.
2. Annulment of the legal act through which a legal entity has been formed shall not affect its existence. The cancellation of the participation in the act of formation by one or more founders of a legal entity by itself shall not affect the validity of the participation of the remaining founders.
3. If a capital has been formed in the name of a non-existent legal entity, the court at the request of an interested party or the Public Prosecutors Office shall declare that this capital shall belong to a legal entity in the pretended legal form, created with such decision. Unless another solution should appear advisable to the court, the court shall dissolve that legal entity by the same decision. The provisions of article 24, paragraphs 6 to 8 shall apply analogously. The other solution may consist in the subsequent adoption of articles of association by the court and the designation of directors, supervisory board members, members or shareholders.
4. If the non-formation of the legal entity is attributable in whole or in part to serious fault or gross negligence on the part of one or more persons who prior to the dissolution acted as founder, director, supervisory board member, member or shareholder, then these persons shall be jointly and severally liable toward the dissolved legal entity in respect of any deficit appearing at the liquidation.

Article 3

1. As regards property law, a legal entity shall be considered equivalent to a natural person, insofar as not otherwise provided by law.
2. Members, shareholders and others who pursuant to the law or the articles of association are involved in the formation of the legal entity shall not be personally liable in respect of the debts of the legal entity, insofar as not otherwise provided by law.

Article 4

1. If a notarial deed of incorporation is required, it shall be executed in the language elected by the founders, provided the civil-law notary shall understand such language. In case of a language other than Dutch or English, a Dutch or English translation signed and certified by a sworn translator shall be attached to the deed.
2. The deed shall contain in any event:
   a. the articles of association of the legal entity;
   b. unless it concerns a foundation that is being formed pursuant to a last will and testament, the names and places of residence of the initial directors and of the other officials to be in office pursuant to the law or the articles of association.
3. Any reference to a notarial deed in this Book shall be understood to mean a deed executed by or before a civil-law notary officiating in Sint Maarten. A power of attorney to enter into the deed shall be granted in writing.

Article 5

1. The civil-law notary before whom the deed of incorporation is executed shall see to it that the deed shall meet the provisions laid down in this Book and that the required documents shall be attached to it. He/she shall then see to it that the legal entity shall be entered in the Trade Register as soon as possible, and that at the same time an authentic copy of the deed, with attached thereto the documents required pursuant to this Book, shall be deposited at the office of the Trade Register.
2. If the deed of incorporation has been executed by a civil-law notary, any amendment to the articles of association shall additionally always require a notarial deed. The articles of association, as they read following the amendment, shall be included in their entirety in the deed of amendment to the articles of association or shall be attached thereto. Every director shall be authorised to cause the deed to be executed, without prejudice to the authority of the general meeting to also authorise another party to that effect. Paragraph 1 above shall apply analogously.
3. In case of non-compliance with the obligations arising from paragraphs 1 and 2 above, the civil-law notary shall be personally liable toward any party sustaining loss and/or damage as a result.

Article 6

1. Rights and obligations shall arise from legal acts performed on behalf of a legal entity to be incorporated for that legal entity only when it expressly or tacitly ratifies such legal acts at or following its formation.
2. The persons performing a legal act on behalf of a legal entity to be incorporated shall be jointly and severally liable as a result. Such liability shall lapse one year from the ratification, unless otherwise stipulated in writing.

Article 7

1. A legal entity and those who pursuant to the law or the articles of association are involved in its organisation shall behave toward one another in accordance with the requirements made according to the standards of reasonableness and fairness.
2. Any rule or decision in effect among them pursuant to the law, custom, articles of association, regulations, resolution or agreement shall not apply insofar as, under the given circumstances, the same would be unacceptable according to the standards of reasonableness and fairness.

Article 8

1. Every legal entity shall have a board of directors.
2. Subject to restrictions imposed by law or the articles of association, the board of directors shall be charged with the management and administration of the legal entity. Restrictions of the management authority of the board of directors may also ensue from a corporate agreement or a set of regulations. Individual directors shall exercise their powers with due observance of the resolutions of the board of directors.
3. In the discharge of its duties the board of directors shall be guided by the interest of the legal entity and, insofar as applicable, its affiliated enterprise.
4. Unless otherwise provided in the articles of association, the board of directors of a legal entity not being a foundation shall not be competent, without the instruction of the general meeting, to petition an adjudication in bankruptcy against the legal entity. The board of a foundation shall be authorised to report for an adjudication in bankruptcy, unless the articles of association restrict or exclude this authority.
5. The legal relationship between a director and the legal entity shall not, or not also, be considered an employment contract.
6. In the event of the bankruptcy of the legal entity, the salary and other compensation accruing to a director in connection with the discharge of his/her office shall, as and from the day of adjudication in bankruptcy, not be for the account of the estate insofar as the examining judge in the bankruptcy does not decide otherwise.
7. The provisions in paragraph 6 above shall apply analogously in respect of the salary and other compensation accruing to members of other bodies of the legal entity.

Article 9

1. The court of first instance shall have jurisdiction in all legal proceedings instituted pursuant to this Book or the articles of association against a director or the legal entity, as also in the legal proceedings to which the agreement between a director and the legal entity gives rise. The same shall apply in respect of all other proceedings regulated in this Book and of proceedings arising from a corporate agreement.
2. The articles of association may provide that all or certain disputes involving two or more of the persons referred to in article 7, paragraph 1, as such shall be settled by arbitration or binding decision.

Article 10

1. Subject to restrictions laid down by or arising from the law, the articles of association, a corporate agreement or a set of regulations, the legal entity shall be represented by the board of directors. In the event of several directors, the legal entity shall be represented by any director, insofar as not otherwise provided by a regulation or provision as referred to in the first sentence.
2. Restrictions of the management authority, as referred to in article 8, paragraph 2, shall also extend to restriction of the corresponding representative authority.
3. Unless excluded by the articles of association, a restriction of the representative authority referred to in paragraphs 1 and 2 above can be invoked against an opposite party who:
   a. was aware, or should be aware without conducting his own investigation, of the restriction;
   b. could have been aware of the restriction from consulting the Trade Register.

   Paragraphs 2 and 3 of article 61 of Book 3 shall apply analogously. The opposite party shall be entitled only to invoke the provisions in paragraphs 4 and 5 of this article
4. An opposite party may rely on a statement by the board of directors or a director addressed to the opposite party that the legal entity will not invoke one or more restrictions referred to in paragraphs 1 and 2.
5. Without prejudice to the provisions in paragraph 4, the board of directors shall be bound to provide a definite answer at the request of an opposite party as to whether a restriction as referred to in paragraph 1 or 2 exists, and what the nature of that restriction is. If the requested definite answer is not given within a reasonable term stipulated by the opposite party, such party may reject the legal act as being invalid, provided that this is done promptly upon the expiration of the stipulated term. The same shall apply if the board of directors fails to notify the opposite party within a reasonable term stipulated by such party that the conditions for lifting a restriction have been met. Any director shall be authorised to issue a statement as referred to in this article on behalf of the board of directors.
6. A statement as referred to in paragraph 4 or 5 shall be given in writing. An incomplete or unclear statement may nevertheless be otherwise supplemented or clarified.
7. The articles of association may also grant to other officers, to be designated by or pursuant to the articles of association, representative authority whether or not together with the directors.

Article 11

1. The legal entity shall be represented by the supervisory board in respect of legal acts with or lawsuits against a director. If there is no supervisory board, the legal entity shall be represented by the general meeting or by a person or body to be designated for that purpose by the general meeting. In the case of a foundation, the designation shall be made by a court at the request of an interested party.
2. The provisions of paragraph 1 above may be deviated from in the articles of association. They may also be deviated from in regulations laid down pursuant to the articles of association by the general meeting, and in the case of a foundation by a body other than the board of directors.

Article 12

1. The articles of association shall contain rules as regards the manner in which a temporary arrangement shall be made for the management of the legal entity in the event of the absence or inability to act on the part of all the directors.
2. The articles of association may provide that the body that appoints a director may designate a substitute director who shall act for and exercise the powers of a director in the event of his absence or inability to act. The designation may be revoked at any time by the body that made the designation.

Article 13

1. The legal entity shall not exceed its object clause contained in the articles of association.
2. Unless the articles of association exclude invocation of an ultra vires act, a legal act performed by the legal entity may be declared void if the act can be deemed ultra vires and the co-contracting party was aware or should have been aware that the act would be construed as an ultra vires act, without his own investigation. Only the legal entity can invoke annulment on these grounds. Invocation of an ultra vires act cannot be excluded in the case of a foundation.
3. Pursuant to a resolution of the general meeting, a legal entity that is not a foundation may confirm a legal act that can be deemed ultra vires, or may waive invocation of an ultra vires act. Article 10, paragraph 4 shall apply analogously in respect of the legal entity that is not a foundation.

Article 14

1. Each director shall be bound toward the legal entity to ensure the proper exercise of the duties falling within the scope of his work.
2. The scope of the work of a director shall include all the management tasks not assigned to any one or several other directors under or pursuant to the law, the articles of association, a corporate agreement or a set of regulations.
3. The directors to whom certain tasks have been assigned pursuant to paragraph 2 above shall keep the other directors informed on a regular basis of the state of affairs in that field of responsibility.
4. Each director shall bear responsibility for the general course of affairs. He shall be liable in full in respect of mismanagement. The director who proves, however, that the mismanagement was not attributable to him, also considering the duties assigned to others and the period during which he has been in office, and that he was not negligent in acting to prevent or avert its consequences, shall not be liable.
5. If, in the event of the bankruptcy of the legal entity, a claim by reason of this article is instituted by the trustee in bankruptcy, the director shall not be entitled to rely on a discharge to be granted in any way or form by the legal entity. Nor shall the director in this case be capable of relying on a setoff against any claim on the legal entity.

Article 15

1. The board of directors shall keep such accounting records of the financial position of the legal entity and all matters relating to the activities of the legal entity, in accordance with the requirements arising from such activities, and shall keep such books, records and other information carriers pertaining thereto as to enable the rights and obligations of the legal entity to be ascertained at any time.
2. Without prejudice to the provisions laid down elsewhere by law, the board of directors shall prepare and put down in writing a set of financial statements, at least consisting of a balance sheet and a statement of income and expenditure, within eight months of the end of the financial year.
3. The board of directors shall be required to keep the books, records and other information carriers referred to in paragraphs 1 and 2 above during ten years.
4. The data entered on a data carrier, with the exception of the balance sheet and statement of income and expenditure put down in writing, may be transferred to another data carrier and preserved, provided that such transfer takes place with the correct and full reproduction of the data and such data are available during the full term of safekeeping and are capable of being rendered in readable form within a reasonable period.
5. The financial year of a legal entity shall be the calendar year, unless another financial year is designated in the articles of association.
6. Any director shall have the right to inspect and access all the books, records and other data carriers in respect of which the board of directors is subject to a retention obligation by law or under the articles of association, to the extent that the right of inspection has not been restricted by or pursuant to the relevant regulation with respect to one or more directors.

Article 16

1. In case of the bankruptcy of the legal entity, each director shall be jointly and severally liable toward the estate for the deficit, being the amount of the debts insofar as the same cannot be met through a setoff with the other assets, if there is evidence of manifestly improper management and it is plausible that this is a significant cause for the bankruptcy. Article 14, paragraph 5 shall apply analogously.
2. If the obligations under article 15 have not been complied with or the financial statements have not been prepared or will not be prepared in good time, it shall be assumed that manifestly improper management has otherwise also occurred and that mismanagement is a significant cause for the bankruptcy. This shall also apply if the legal entity is a fully liable partner in a general partnership (*vennootschap onder firma*) or a limited partnership (*commanditaire vennootschap*), and the obligations under article 15i of Book 3 have not been complied with. An immaterial omission shall be disregarded. The mere fact that the financial statements that were prepared in good time do not meet legal standards or standards in accordance with the articles of association shall not be sufficient to give rise to the suspicions referred to in the first sentence.

3. For the purposes of paragraph 1 above, only the mismanagement in the period of three years preceding the bankruptcy or the suspension of payments preceding the bankruptcy within the meaning of Article 238 of the Bankruptcy Decree 1931 shall be taken into account. The same shall apply in respect of non-compliance with the obligations referred to in paragraph 2 above, insofar as the obligations ensue from article 15, paragraphs 1 or 2 of this Book or from article 15i of Book 3. The requirement to prepare the financial statements in good time referred to in paragraph 2 shall relate only to the financial statements for the last two financial years that were closed prior to the time referred to in the first sentence of this paragraph 3.
4. The director who proves, also considering the scope of the duties assigned to others and the period during which he has been in office, that the mismanagement that was a significant cause for the bankruptcy was not attributable to him, and that he was not negligent in acting to prevent or avert its consequences, shall not be liable.
5. The provisions in paragraph 2 above shall not apply in respect of the director who proves, also considering the scope of the duties assigned to others and the period during which he has been in office, that the non-compliance with the obligations described therein was not attributable to him, and that he was not negligent in acting to promote improved compliance with such obligations.
6. The court may reduce the amount for which the directors or certain directors shall be liable if such amount appears excessive to it, having regard to the nature and the gravity of the mismanagement, the other causes for the bankruptcy as well as the manner in which the bankrupt estate was wound up.
7. If the size of the deficit is not yet known, then the court, whether or not applying paragraph 6, may stipulate that an assessment be drawn up of the deficit which the court orders the directors to pay, in accordance with the provisions in Book 2, Title 6 of the Code of Civil Procedure.
8. At the demand of the trustee in bankruptcy or a sued director, the court may direct that when calculating the deficit and dividing the proceeds pursuant to this article via the distribution list, a creditor's claim be disregarded in whole or in part if and to the extent that analogous application of article 101, paragraph 1 of Book 6 shall give cause for this. The claim shall be instituted against the creditor brought into the action for the purpose.
9. For the purposes of this article, a person who for any period within the time referred to in paragraph 3 has determined or jointly determined the policy of the legal entity as if he were a director, or as founder has manifestly acted negligently, shall be considered equivalent to a director. The claim may not be instituted against an official appointed by the court otherwise than pursuant to the final sentence of article 2, paragraph 3.
10. Paragraphs 1 to 9, inclusive, shall apply in respect of public and private limited liability companies. They shall otherwise apply only in respect of the legal entity that during any period within the term referred to in paragraph 3 was the owner of an enterprise within the meaning of the Trade Register Ordinance, with only mismanagement committed during that period of time then being taken into account.
11. Paragraphs 1 to 10, inclusive, shall apply, or shall apply analogously, in respect of the liability of directors of a legal entity governed by

foreign law, if declared bankrupt in Sint Maarten. Persons charged with the management of the activities performed in Sint Maarten shall also be held liable as directors. The court that has pronounced the bankruptcy shall have competence.

12. This article shall not affect the authority of the trustee in bankruptcy to institute a claim based on the agreement with the director or based on article 14.

Article 17

1. The liability of a legal entity as director of another legal entity shall also rest jointly and severally on anyone who is a director of the legal entity at the time its liability arose.
2. Article 14, paragraphs 4 and 5, and article 16, paragraphs 4 and 5, shall apply analogously in respect of the director referred to at the end of paragraph 1.

Article 18

1. The articles of association may provide that the management tasks shall be assigned, in the manner laid down in this article, to a governing board and an executive board.
2. Subject to the restrictions pursuant to article 8, paragraph 2, the executive board shall be charged with the management of the legal entity, insofar as relating to its day-to-day running and operations. The executive board shall also be charged with the remaining tasks assigned in this Book to the board of directors.
3. Subject to the restrictions laid down by law and in the articles of association, the legal entity shall be represented by the executive board. Article 10 shall apply analogously.
4. The tasks of the general board shall include at a minimum:
   a. the appointment as such of executive directors;
   b. the determination of their remuneration as such;
   c. deciding on matters beyond the scope of the daily affairs of the legal entity; and
   d. the supervision of the executive board.
5. In case of doubt, the general board shall decide on whether a matter pertains to the day-to-day running and operations of the legal entity.

6. One or more members of the general board may at the same time be members of the executive board, provided that they form a minority in the general board and are capable of jointly casting fewer votes in the general board than the other members of the general board jointly.
7. The executive board shall provide the general board and the individual members of the general board in a timely manner with the data necessary for the discharge of their duties or as required by the person concerned with a view to the discharge of those duties.
8. The general board shall be authorised at all times to dismiss an executive director as such, or to suspend him for a period of up to two months.
9. For the purposes of article 8, paragraph 3, the general board shall constitute the board of directors. The executive board shall exercise its powers as such with due observance of the resolutions of the general board. Within the executive board, individual directors shall

exercise their powers with due observance of the resolutions of the executive board.

10. Without prejudice to the provisions in paragraph 9, for the purposes of the law the members of the general board and of the executive board shall be considered equally as directors, unless otherwise provided by law.

Article 19

1. The articles of association may provide that there is or may be a supervisory board. The articles of association shall then describe the tasks of the supervisory board.
2. The tasks of the supervisory board shall include at a minimum the supervision of the board of directors
3. The supervisory board shall consist of one or more natural persons. A legal entity cannot be a member of a supervisory board of a legal entity to which an enterprise within the meaning of the Trade Register Ordinance belongs.
4. Unless otherwise provided by the articles of association, the supervisory board may suspend any of the directors. The suspension shall be lifted if the person concerned has not been dismissed within two months from the date of suspension.
5. The articles of association may contain supplementary provisions regarding the duties and powers of the supervisory board and its members.
6. The board of directors shall provide the supervisory board and the individual supervisory board members in a timely manner with the data necessary for the discharge of their duties or as required by the person concerned with a view to the discharge of those duties.
7. The provisions in articles 9, 14 and 16 shall apply analogously in respect of the supervisory board members. In this connection, all persons that are charged with the supervision of the board of directors under the articles of association shall be considered as supervisory board members.
8. In discharging its duties, the supervisory board shall be guided by the interest of the legal entity and, to the extent relevant, its affiliated enterprise. Unless otherwise provided by the articles of association, this shall not rule out the possibility that, with due observance of the first sentence, a supervisory board member will in particular protect the interests of the party that appointed or nominated him and cause such interests to weigh relatively heavily.
9. Article 51, paragraph 1(c), article 80 and article 236 shall apply analogously in respect of the appointment, suspension and dismissal, respectively, of supervisory board members. In the case of a public limited liability company, article 136 shall apply analogously, subject to the provisions in article 139.

Article 20

1. A vote shall be null and void in the cases where a unilateral legal act is void; a vote cannot be annulled.
2. An incapable person who is a member of an association may exercise his right to vote therein himself, to the extent that the articles of association do not provide otherwise. In other cases, his legal

representative shall be entitled to exercise the right to vote on his behalf.

3. Unless the articles of association provide otherwise, the opinion of the chairman, expressed in the meeting of a body of a legal entity regarding the outcome of a vote, shall be decisive. The same shall apply in respect of the contents of a resolution that was adopted, insofar as a proposal not laid down in writing was voted on.
4. If the correctness of the opinion of the chairman is challenged immediately following its pronouncement, a new vote shall be held if demanded by the majority of the meeting or, where the original vote was not by roll-call or written ballot, by one of those present with voting rights. As a result of this new vote, the legal consequences of the original vote shall lapse.

Article 21

1. A resolution of a body of the legal entity that is in contravention of the law or the articles of association shall be invalid, unless the law provides otherwise.
2. A resolution shall also be invalid if a quorum, majority, proposal, nomination or authorisation, prescribed by this Book or the articles of association, is lacking. A resolution shall be invalid furthermore so long as an approval of another body, prescribed by this Book or the articles of association, is lacking.
3. A resolution of a body of the legal entity shall be subject to annulment on the demand of any person having a reasonable interest in the observance of the regulation that has not been complied with by reason of:
   a. without prejudice to the provision in paragraph 2 above, contravention of the provisions of the law or the articles of association governing the realisation of resolutions;
   b. contravention of the reasonableness and fairness required under article 7;
   c. contravention of a corporate agreement;
   d. contravention of any regulations.
4. The authority to demand the annulment of a resolution shall lapse six months from the end of the day on which either the resolution has been adequately publicised, or the interested party has taken cognisance of the resolution or has been notified thereof.
5. The prescriptive period referred to in paragraph 4 may be extended for up to six months by the interested party through a notification delivered to the legal entity within such term.

Article 22

1. The irrevocable decision establishing the nullity of a resolution of a legal entity or cancelling any such resolution shall be binding upon all the parties, subject to revocation or opposition by third parties, if the legal entity was a party to the proceedings. Every member or shareholder shall be entitled to revocation.
2. If the resolution is a legal act of the legal entity, directed at a co-contracting party, or if it is a requirement for the validity of any such legal act, then the nullity or cancellation of the resolution cannot be invoked against such co-contracting party if the latter was not cognisant nor needed to be cognisant of the defect attaching to the

resolution. Nevertheless, the nullity or cancellation of a resolution to issue shares to the intended shareholder and a resolution to appoint a director or a supervisory board member may be invoked against the person appointed; the legal entity shall indemnify the loss or damage sustained by the co-contracting party, however, if the latter was not cognisant nor needed to be cognisant of the defect in the resolution.

Article 23

When determining the extent to which a quorum or majority requirement has been observed in relation to voting, the memberships or shares in respect of which the law or the articles of association provide that no vote may be cast for them in relation to the matter under consideration shall not be taken into account.

Article 24

1. A court may dissolve the legal entity if:
   a. its object or activities are contrary, whether in whole or in part, to public morality, public order, the law or the articles of association;
   b. the act of formation shows serious flaws;
   c. the articles of association are in contravention of the law;
   d. in the event of absence of all the directors, an arrangement to provide temporarily for management has not been made in accordance with the regulations laid down in article 12, paragraph 1.
2. A court may also dissolve an association, cooperative or mutual insurance association if members are entirely lacking.
3. A court may furthermore dissolve a public limited liability or a private limited liability company if:
   a. at least as many shares as will allow a right to vote to be exercised on any topic and one share participating in the profit is/are not being held by a party other than the company itself;
   b. the request for dissolution was made within one year from incorporation and the company is unable to show that the declaration referred to in article 101, paragraph 2 or, as the case may be, article 201, paragraph 2 was correct or that the balance sheet on formation referred to in article 101, paragraph 3 or, as the case may be, article 201, paragraph 3, upon valuation according to generally acceptable standards of the assets and liabilities as shown, correctly reflected the situation existing at that time.
4. Dissolution may be requested by an interested party or the Public Prosecutors Office. The party submitting the request shall give notice thereof in the National Gazette. If the legal entity is entered in the Trade Register, notice of the request having been submitted shall also be given at the office of the Trade Register, for the purpose of registration.
5. The court shall not proceed to effect dissolution until after having afforded the legal entity the opportunity to remove the grounds for dissolution. As regards the ground referred to in paragraph 3(b), the court shall not pronounce the dissolution until after having afforded the company the opportunity to bring its equity capital in line with the

declaration or the balance sheet referred to therein, within a period of time to be stipulated by the court.

6. The decision whereby the legal entity is declared dissolved shall contain the appointment of a trustee in bankruptcy and the designation of an examining judge.
7. The liquidation of the dissolved legal entity shall be effected by the trustee in bankruptcy under the supervision of the examining judge, in accordance with the provisions in the Bankruptcy Decree 1931.
8. The trustee in bankruptcy shall announce the decision, whereby the legal entity is declared dissolved, in the National Gazette. If the legal entity is entered in the Trade Register, the decision shall also be notified to the office of the Trade Register, for the purpose of registration.
9. If the ground(s) for dissolution is/are attributable in whole or in part to serious fault or gross negligence on the part of one or more founders, present or former directors or supervisory board members, or present or former members or shareholders, then these parties shall be jointly and severally liable toward the dissolved legal entity for any deficit evident upon the liquidation. Article 14, paragraph 5 shall apply analogously.

1.

Article 25

1. A legal entity registered in the Trade Register shall be dissolved by an administrative decision of the Chamber of Commerce and Industry if the Chamber finds that at least one of the following circumstances has arisen:

a. no directors of the legal entity are recorded in the register for at least one year, while no submission for registration is made or, if directors are registered, one of the following circumstances occurs:
   1°. all the directors have died;
   2°. all the directors have proved to be unavailable at the address of the legal entity shown in the register.
b. according to the records of the Chamber, the legal entity has failed to comply with its obligation to pay the amount due for listing in the Trade Register for at least one year;
c. the Financial Intelligence Unit, referred to in section 2 of the National Ordinance Financial Intelligence Unit, has informed the Chamber that the legal entity has committed suspicious transactions; or,
d. the legal entity does not comply with the provisions of article 59 or article 89, paragraph 4.

2. The Chamber shall publish its intention to dissolve the legal entity, stating the circumstances on which the intention is based.
3. The publication of the intention shall take place through inclusion of the name of the legal entity according to its articles of association on a list, to be referred to as the dissolution list, which shall be posted on the Chamber's website.
4. The Chamber shall also report the publication of the dissolution list in the National Gazette and in a newspaper published in Sint Maarten.
5. Six weeks after the report referred to in paragraph 4,

the Chamber shall dissolve the legal entity by
an administrative decision, unless the Chamber finds before that time that the
circumstances referred to in paragraph 1 do not pertain or no longer pertain.
6. The administrative decision dissolving the legal entity shall be announced by its inclusion in the Trade Register and publication in accordance with paragraphs 3 and 4.

Article 25a

1. Articles 55 and 75 of the National Ordinance Administrative Justice do not apply in respect of an administrative decision dissolving the legal entity as referred to in article 25, paragraph 1.
2. If an appeal is filed against an administrative decision to dissolve a legal entity pursuant to the
National Ordinance Administrative Justice, the
Chamber of Commerce and Industry shall record this in the Trade Register. The decision on the appeal shall also be recorded.
3. If the decision on the appeal serves to overturn the administrative decision,
the Chamber shall post a corresponding notice on the Chamber's website and it shall report the same in the National Gazette and in a newspaper published in Sint Maarten.
4. During the time period in which the legal entity
ceased to exist following the administrative decision on dissolution, there is a
ground for extension as referred to in article 320 of Book 3 with regard to the
prescription of legal claims or actions by or against the legal entity.

Article 25b

1. The Chamber of Commerce and Industry may designate a liquidator in the administrative decision to dissolve the legal entity referred to in article 25, paragraph 1.

2. The Chamber shall act as the liquidator of the assets of the dissolved legal entity if no liquidator
is designated as referred to in paragraph 1, nor as referred to in article 29, paragraph 1.
3. The Chamber acting as a liquidator
shall act in accordance with the provisions of article 31. Article 25, paragraph 4 shall apply analogously to the announcement referred to in article 31, paragraphs 5 and 6.
4. The Chamber shall keep the books, records and other information carriers of the dissolved legal entity, to the extent these are in its possession, at the office of the Trade Register for a period of ten years.
5. The Chamber is not liable for the
consequences of the administrative decision on dissolution, the appointment of a
liquidator or the liquidation pursuant to this article.

Article 26

1. The court before which a request for the dissolution of a legal entity is pending may, at the request of an interested party or the Public Prosecutors Office, effect an arrangement as referred to in article 276, paragraph 4, if the interest of the legal entity or another person as referred to in article 7, paragraph 1, or the interest of the creditors of the legal entity, so require.
2. Article 276, paragraph 3, first sentence, and article 276, paragraphs 5 and 7 shall apply analogously.

Article 27

1. Without prejudice to the provisions laid down elsewhere by law, the legal entity shall be dissolved:
   a. through a resolution to that effect of the general meeting or, if the legal entity is a foundation and the articles of association so permit, through a resolution of a body or third party designated for that purpose in the articles of association;
   b. following an adjudication in bankruptcy, through either the closing of the bankruptcy for lack of assets, or insolvency.
2. The liquidators, and in the case of paragraph 1(b) the trustee in bankruptcy, shall give notice of the dissolution in the National Gazette. If the legal entity is entered in the Trade Register, the dissolution shall also be notified to the office of the Trade Register, for the purpose of registration.
3. The articles of association may provide for other methods of dissolution. Dissolution pursuant to a provision in the articles of association as referred to in this paragraph shall not take effect before notice of such dissolution has been given in accordance with paragraph 2. The provision in the articles of association shall become invalid if the liquidators have not done everything necessary within six months from the moment that it was first possible to ensure the notice and registration referred to in paragraph 2 are given and take place.

Article 28

1. Following its dissolution, the object of the legal entity shall be the liquidation of its assets and all such things as may be useful for that purpose.
2. All written documents issuing from the legal entity shall state the words "in liquidation", or the translation thereof in any appropriate language, written in full and added, at the end, to the name of the legal entity.

Article 29

1. If neither in the articles of association nor in a resolution of the general meeting or, in the case of a foundation by the board of directors, liquidators have been designated or appointed, the board of directors shall act as such. The court shall be competent at all times, at the request of an interested party or the Public Prosecutors Office, to dismiss a liquidator, to designate one or several other liquidators, to provide such liquidator(s) with the necessary instructions and to decide

on the liquidators' remuneration and the division of such remuneration among them.

2. In the event of two or more liquidators, any one of them may perform all acts for the liquidation, unless otherwise provided. The court shall decide on any difference of opinion between the liquidators in accordance with paragraph 1, second sentence. Furthermore, the provisions regarding the powers, obligations and liability of directors shall apply in respect of the liquidators to the extent possible, without prejudice to the provisions of article 28, paragraph 1.
3. If the liquidator finds that the debts will be likely to exceed the assets, then he shall report this for an adjudication in bankruptcy, unless all the known creditors on request agree in writing to the continuation of the liquidation not falling under bankruptcy.
4. If not otherwise provided by the articles of association or by resolution of the general meeting or at the designation of liquidators by the court, the supervisory board shall have the same task in respect of the liquidators as it had in respect of the board of directors prior to the dissolution.
5. No appeal shall lie against a decision by the court in accordance with paragraph 1, second sentence.

Article 30

1. The liquidator shall convert the assets of the legal entity into cash, wind up the relations with respect to third parties and pay the debts. Any balance remaining following payment of the creditors shall be distributed among those thereto entitled in pursuance of the articles of association, or otherwise among the members or shareholders. In the case of public limited liability and private limited liability companies, article 118, paragraph 3, and article 218, paragraph 3 shall apply analogously. If no other party is entitled to the surplus, the liquidator shall pay it over to the country of Sint Maarten.
2. The liquidator shall be authorised, if the condition of the estate shall give cause to do so, to make payments in advance.

Article 31

1. The moment the conclusion of the liquidation nears, the liquidator shall draw up an account to be rendered of the liquidation, showing the extent to which each of the creditors has been paid and, if a surplus exists, the amount and composition of the surplus. In respect of the surplus he shall draw up a distribution plan containing the bases of the distribution.
2. The liquidator shall deposit the documents referred to in paragraph 1 above for inspection at the office of the legal entity and the Trade Register for a period of at least thirty days. The liquidator shall announce in the National Gazette as well as in writing to all the known members and holders of shares and to all the known creditors the place where and the time up to which these documents shall be available for inspection.
3. At the latest on the thirtieth day following both the submission for inspection of the documents and the announcement thereof in the gazette, referred to in the paragraph 2 above, any creditor or party entitled may object to the documents referred to in paragraph 1 by lodging a petition with the court. The liquidator shall announce the

objection lodged in the same manner as the announcement of submission for inspection. If no objection has been lodged or if the objection lodged has been withdrawn, the liquidator shall proceed to the further winding up and distribution of the surplus.

4. Following the lodging of an objection the court may give such instructions as regards a continued liquidation and introduce such changes in the distribution plan as it shall deem appropriate.
5. As soon as the decision on any objection has become irrevocable, the liquidator shall announce this in the same manner as the announcement of the objection lodged. He shall then proceed to the further winding up and distribution of the surplus.
6. The liquidation shall terminate and the legal entity shall cease to exist at the time when the liquidator states in writing that there are no longer assets known to him and he has announced this statement in the manner provided in paragraph 2 above.
7. Paragraphs 1 to 6, inclusive, shall not apply if, upon assuming his duties as liquidator in the matter, the liquidator determines that there are no assets known to him. The liquidation shall then terminate and the legal entity shall cease to exist at the time when a statement to that effect, including the determination referred to in the preceding sentence, has been filed with the Trade Register by the liquidator and has been announced in the National Gazette.
8. The liquidator shall in all cases draw up a final account and shall deposit the same for inspection at the office of the Trade Register and, where possible, at the office of the legal entity.

Article 32

1. At the request of a person having a reasonable interest therein, the court may reopen the liquidation proceedings or open the proceedings and appoint one or more liquidators.
2. If the request has been made by a creditor subsequently proving his debt, the liquidator shall be authorised to demand that the parties entitled to the surplus pay back the excess amount received by each of them.

Article 33

1. Following the conclusion of the liquidation, the books, records and other information carriers of the dissolved legal entity shall remain in the custody of a custodian for a period of ten years.
2. If neither in the articles of association nor in a resolution of the general meeting or, in the case of a foundation by the board of directors, a custodian has been designated or appointed, the liquidator shall act as such. Article 29, paragraph 1 shall otherwise apply analogously.

Article 34

1. Each custodian shall be bound to report his designation or appointment as such for registration to the office of the Trade Registers where the dissolved legal entity was registered.
2. The parties entitled to the surplus and their rightful claimants may be authorised by the court to inspect the books, records and other information carriers if they show that as such they have a reasonable interest in such inspection.

3. No appeal shall lie against a decision pursuant to paragraph 2 above.

Article 35

1. Decisions of a court, to the effect of:
   a. deleting, supplementing or amending the entry in the Trade Register concerning a legal entity;
   b. amending or temporarily deviating from the articles of association of the legal entity;
   c. dismissing, suspending or appointing, whether or not provisionally, a director or supervisory board member;
   d. nullifying or cancelling a resolution to dissolve or amend the articles of association;
   e. dissolving a legal entity, or an administrative decision as referred to in article 2, paragraph 3;
   f. setting aside a decision as referred to under a to e, inclusive;

   shall be sent by the clerk of the judicial authority before which the matter was last pending to the registrar of the Trade Register with the request that he see to the deposit and entry of the relevant fact appearing from such decision, such without prejudice to any obligation otherwise issuing from the law on others to notify such fact for registration and entry.
2. In case of the bankruptcy of a legal entity entered in the Trade Register, or of such legal entity obtaining a moratorium on payments, the announcements that are placed in the National Gazette pursuant to the Bankruptcy Decree 1931 shall also be stated for entry in that register by the person charged with such publication.

Article 36

1. For the purposes of the provisions of this Book, written expression shall be considered equivalent to an expression made by writ, telegram, telex, telefax, e-mail or other text-conveying means of communication. The articles of association may restrict the use of these means of communication.
2. The full name of the legal entity, the island territory where it is domiciled according to its articles of association and its actual registered office or principal place of business shall be clearly evident from all writings, printed documents and written expressions of the legal entity, with the exception of expressions made by telegram, telex, telefax, e-mail or other text-conveying means of communication. If the legal entity has been entered in the Trade Register, the registration number shall also be stated.

Article 37

1. A fixed fee shall be due for the incorporation of a legal entity, to be established by notarial deed, by the founders, payable to the Country of Sint Maarten. The amount of the fixed fee shall be determined by Ministerial Order with general effect.
2. The fixed fee shall be collected on the Country's behalf by the civil-law notary before whom the deed of incorporation is executed. In the event a civil-law notary should fail to collect the fixed fee, he shall nonetheless be bound to remit the amount of the fee due.

3. The fixed fee shall be remitted on registration within thirty days from the day on which the deed of incorporation was executed. The registration shall be made by presenting a copy of the deed of incorporation.
4. The registration shall be made simultaneously with the payment at the national tax collector.
5. The National Ordinance containing regulations on the collection of taxes, contributions and commissions by means of enforcement assessments, as also on the administration of justice concerning taxes, contributions and commissions shall apply analogously.
6. The provisions in paragraphs 1 to 5, inclusive, shall apply analogously in case of an amendment to the articles of association and on the conversion of a public limited liability or a private limited liability company, on the understanding that the fixed fee shall then be due by the company.

Title 2 The foundation

Article 50

1. The foundation and the private fund foundation are legal entities created as such by notarial deed which shall have the aim, with the aid of an amount of capital designated for that purpose, of realising an object stated in the articles of association.
2. Where the law refers to a foundation, the provision shall also apply to the private fund foundation, unless the contrary is evident.
3. The foundation shall have no members or shareholders. The following persons shall not be considered members of a foundation:
   a. persons to whom authority has been granted, in or pursuant to the articles of association, to fill the vacancies in bodies of the foundation or to suspend and dismiss officers or members of other bodies of the foundation,
   b. participants in a pension fund that is managed by the foundation.
4. The object of a foundation that is not a private fund foundation may not include the paying of benefits to founders or to those forming part of its bodies, nor to others unless, as far as these others are concerned, the benefits are of an idealistic or social nature.
5. Benefits issuing from a right to pension shall not be deemed benefits as referred to in paragraph 4.
6. The object of a private fund foundation may not include the conducting of a business.
7. A business as referred to in paragraph 6 above shall not be considered as:
   a. engaging in the investment of its capital, regardless of the nature of such investments;
   b. having an interest in another legal entity;
   c. participating in a limited partnership as a limited partner.

Article 51

1. The articles of association shall include:
   a. the name of the foundation, with the word "stichting" (foundation) or, as the case may be, "stichting particulier fonds" (private fund foundation) or a translation thereof as part of the name; in the

case of a private fund foundation, the abbreviation "S.P.F." or "SPF" may also be used;
   b. the object of the foundation;
   c. the manner of appointing and dismissing the officers;
   d. the statement that the foundation is domiciled in Sint Maarten;
   e. the allocation of the surplus following liquidation in case of dissolution of the foundation, or the manner in which the allocation will be determined.
2. The articles of association of the foundation may be amended by its bodies only if and insofar as the articles of association shall render it possible to do so, without prejudice to the provision of article 5.
3. The articles of association may provide that persons who have bound themselves to the foundation as an affiliated member, person or participant or under any similar designation shall have certain obligations toward the foundation, or that certain obligations may be imposed on them in the manner provided in the articles of association. Article 79 shall apply analogously in respect of the termination of the commitment.

Article 53

1. If unamended maintenance of the articles of association would lead to consequences that could not reasonably have been desired at the time of the foundation's establishment, and the articles of association exclude the possibility of amendment or do not provide for this, or if those competent to introduce amendments should fail to do so, a court may amend the articles of association at the request of a founder, of the board of directors or of the Public Prosecutors Office.
2. In doing so the court shall deviate as little as possible from the existing articles of association. If amendment of the object shall be required, the court shall designate an object that is related to the existing object. With due regard for the foregoing, the court shall be authorised, if necessary, to amend the articles of association otherwise than as requested.
3. Under analogous application of paragraphs 1 and 2, the court may amend the articles of association to prevent the dissolution of the foundation on grounds as stated in article 24 or article 57, paragraph 1(a).
4. In legal proceedings in which the dissolution of a foundation is requested on grounds as stated in paragraph 3, the court may exercise the powers referred to in this article also officially.

Article 54

1. In case of serious doubt as to whether the law or the articles of association are being complied with in good faith or as to whether the management is being properly conducted, the Public Prosecutors Office shall be authorised to request the board of directors to provide information. The information shall be put down in writing, if requested.
2. In case the request is not, or is not properly, complied with, as well as where there are well-founded reasons to doubt a proper policy, the Public Prosecutors Office may charge one or more expert persons with obtaining further information on the policy and affairs of the foundation.

3. The board shall be obliged to provide the requested information and, if requested, also to allow its books, records and other information carriers to be inspected by the Public Prosecutors Office and the experts.

Article 55

1. At the request of the Public Prosecutors Office or an interested party, the court may dismiss an officer if:
   a. he commits or omits to perform an act in contravention of the provisions of the law or the articles of association, or he is responsible for mismanagement;
   b. he fails, or fails properly, to comply with his obligations under article 54, paragraph 3.
2. The court may, pending the investigation, make an arrangement as referred to in article 276, paragraph 4. Article 276, paragraph 3, first sentence, and article 276, paragraphs 5 to 7 inclusive shall apply analogously.
3. The court may direct that an officer dismissed by it may not be an officer of a foundation for the duration of five years after the dismissal has become irrevocable.

Article 56

1. Whenever the board of directors prescribed by the articles of association should be lacking in whole or in part and no provision is made for this in conformity with the articles of association, the court may, at the request of an interested party or the Public Prosecutors Office, provide for the vacancy to be filled. In doing so the court shall observe the articles of association to the extent possible.
2. If so requested or acting officially, the court may fill the vacancy while simultaneously granting a request as referred to in article 55, paragraph 1.

Article 57

1. The court shall dissolve the foundation at the request of an interested party or the Public Prosecutors Office, if:
   a. the assets of the foundation are totally inadequate for the realisation of its object and it is extremely unlikely that sufficient assets will be acquired through contributions or otherwise in the foreseeable future;
   b. the object of the foundation has been achieved or can no longer be achieved, and amending the object cannot be considered.
2. The court may dissolve the foundation, if so requested or officially, while simultaneously rejecting a request as referred to in articles 53 or 56.
3. The provisions of article 24, paragraphs 4 to 8 inclusive shall apply analogously.

Article 58

Articles 119 to 126, inclusive, shall apply analogously in respect of a foundation to which an enterprise within the meaning of the Trade Register Ordinance belongs, on the understanding that:

a. in article 120, paragraph 1, "the general meeting" will now be read as: the board of directors;
b. article 120, paragraph 6 shall not apply;
c. in article 121, paragraph 2, "the general meeting" will now be read as: the body designated in the articles of association;
d. in article 121, paragraph 7, "the general meeting" and "it" will now be read each time as: the board of directors;
e. in article 124, paragraph 1, the sentence from "and furthermore" shall not apply.

Article 59

1. Each year within eight months of the end of the financial year, unless this term is extended by a maximum of six months on the grounds of exceptional circumstances, the board shall adopt an annual report on the performance of the foundation and the policy pursued. It shall also adopt financial statements, at least consisting of a balance sheet, an income statement and notes to these documents.
2. The financial statements shall be signed by all the officers. If any of their signatures are missing, the reason for this shall be reported.
3. The financial statements shall provide insight, according to generally accepted social standards, that allows a true and fair view to be formed of the assets and the results as well as the solvency and liquidity of the foundation, to the extent the nature of financial statements allows for this.
4. Article 15, paragraph 3 shall apply analogously to the prepared and adopted financial statements and the accompanying documents.
5. The annual report shall state:
    a. the identity of the persons that bear responsibility for the activities of the foundation and who control or manage these, including senior executives and officers, as well as the members of a Supervisory Board if this exists within the foundation;
    b. the controls available to the board to ensure that all funds are fully accounted for and are spent in a manner that is consistent with the purpose and objectives of the foundation; and
    c. the controls available to the board to verify the identity of its main donors and the identity and good standing of its beneficiaries.
6. The financial statements shall include a detailed breakdown of incomes and expenditures as well as a review of all transactions with or by any person or legal entity abroad in excess of a value of ANG 25,000 or the equivalent thereof in foreign currency.
7. The annual report and the financial statements are public documents. Within one week of being signed, they shall be published online by the board and sent to the Chamber of Commerce and Industry and the Financial Intelligence Unit, referred to in article 2 of the National Ordinance Financial Intelligence Unit.
8. If the term referred to in paragraph 1 is extended by a maximum of six months on the grounds of exceptional circumstances, the board will send notice of this to the Chamber of Commerce and Industry and the Financial Intelligence Unit referred to in article 2 of the National Ordinance Financial Intelligence Unit within one week of the decision to extend the term.
9. The provisions of this article do not apply if both the balance sheet total and the income statement total amount to less than ANG 100,000.

Title 3 The Association

Article 70

1. The association is a legal entity with members, its aim being a specific object other than as described in article 90, paragraph 1 or paragraph 2.
2. An association shall be set up by a multilateral legal act.
3. An association may not distribute any profit among its members.

Article 71

1. If an association is formed by notarial deed, then, without prejudice to the provisions in article 4, the following provisions shall be observed.
2. The articles of association shall include:
   a. the name of the association and the statement that it is domiciled in Sint Maarten;
   b. the object of the association;
   c. the obligations of the members toward the association, or the manner in which those obligations shall be capable of being imposed;
   d. the manner in which the general meeting shall be convened;
   e. the manner of appointing and dismissing the officers;
   f. the allocation of the surplus following liquidation in case of dissolution of the association, or the manner in which the allocation will be determined.

Article 72

The general meeting of an association that was not established in accordance with article 71, paragraph 1, may resolve to cause the articles of association to be embodied in a notarial deed. Article 71 shall then apply analogously.

Article 73

1. An association whose articles of association have not been embodied in a notarial deed shall not be capable of acquiring registered properties, nor may it be an heir or beneficiary.
2. The officers of any such association shall be jointly and severally bound, next to the association, in respect of any debts resulting from a legal act arising or becoming due and payable during their administration. Following their resignation they shall moreover be jointly and severally bound in respect of debts resulting from a legal act performed during their administration. A person who was not consulted in advance on the legal act and who, upon taking cognisance of such act, refused to assume responsibility for it as an officer, shall not be held liable pursuant to any of the preceding sentences. In the absence of persons who, next to the association, shall be bound pursuant to the first or second sentence, those who acted shall be jointly and severally bound.
3. The officers of any such association may have it entered in the Trade Register. In doing so they shall submit a copy of the articles of association to the office of the register. If a copy has been submitted to the register, the officers shall be bound, in the event of any

amendment to the articles of association, to submit to such office also a copy of the amendment and of the amended articles of association.

4. If the entry referred to in paragraph 3 above has taken place, then the party bound pursuant to paragraph 2 shall be liable only to the extent that the co-contracting party satisfies the probability that the association will not comply with the undertaking.

Article 74

1. An association may also have one or more other kinds of members in addition to ordinary members.
2. Ordinary members shall have the rights granted to and the obligations imposed on members in this Book. Members who are not ordinary members shall have these rights and obligations insofar as not otherwise provided in the articles of association.

Article 75

Unless the articles of association provide otherwise, the board of directors shall decide on the admission of a member, and in case of non-admission the general meeting may resolve nonetheless to grant admission.

Article 76

1. Membership of the association shall be personal, unless otherwise provided by the articles of association.
2. Unless the articles of the association should provide otherwise, the membership of a legal entity that ceases to exist due to a merger or demerger shall pass to the acquiring legal entity or, as the case may be, in accordance with the description attached to the deed of demerger to one of the acquiring legal entities.

Article 77

Obligations may be attached to the membership only in or pursuant to the articles of association.

Article 78

1. Membership shall end:
   a. through the death of the member, unless the articles of association allow devolution pursuant to the law of succession;
   b. by cancellation of membership by the member;
   c. by cancellation of membership by the association;
   d. due to disqualification or expulsion.
2. If the membership is attached to the capacity as the owner of or party entitled to a registered property, the articles of association may provide that in case of cancellation of membership by the member, the obligations attached to membership shall remain in their entirety or in part with the party concerned for as long as he is the owner or entitled party.
3. The association may terminate the membership in the cases stated in the articles of association, and moreover when a member no longer

meets the membership criteria set out in the articles of association, as well as when the association cannot reasonably be required to allow the membership to continue. Unless the articles of association should charge another body with this, notice of termination of membership shall be given by the board.

4. Expulsion or disqualification may only be pronounced if a member acts contrary to the articles of association, regulations or resolutions of the association, or unreasonably prejudices the association.
5. Unless the articles of association should charge another body with this, notice of expulsion or disqualification shall be given by the board. The member shall be notified in writing of the resolution, with the reasons stated, as soon as possible. Save where the resolution has been adopted by the general meeting pursuant to the articles of association, the member given notice of expulsion or disqualification may appeal to the general meeting, or to a body or third party designated for that purpose in the articles of association, within one month from receipt of the notification of the resolution. The articles of association may contain other appeal regulations, but the term may not be set at less than one month. During the term of appeal and pending the appeal, the member shall be suspended.
6. If membership terminates in the course of a financial year, the annual contribution shall nonetheless remain due in full, unless otherwise provided in the articles of association.

Article 79

1. Unless otherwise provided in the articles of association, membership may only be terminated with effect from the end of a financial year and subject to four weeks' notice. Membership may be terminated in any event through notice with effect from the end of the financial year following the year in which notice is given, or with immediate effect, if it cannot reasonably be expected that membership be allowed to continue.
2. Notice of cancellation of membership given contrary to the provisions in paragraph 1 shall cause the membership to terminate at the earliest permissible time following the date with effect from which notice of termination was given.
3. A member may moreover cancel his membership, with immediate effect, within one month from his having taken cognisance or having been informed of a resolution or an amendment to the articles of association restricting his rights or increasing his obligations. The resolution or the amended provision of the articles of association shall not then apply to him. The articles of association may deny the members this right to terminate in the case of alteration of rights and obligations accurately defined therein.
4. A member may also cancel his membership, with immediate effect, within one month from his having been informed of a resolution to convert the association into another legal form, to merge the association or to demerge it.

Article 80

1. The board shall be appointed from among the members. The articles of association may provide, however, that officers not being members may also be appointed.

2. The appointment shall be effected by the general meeting. However, the articles of association may also provide other regulations regarding the method of appointment, on condition that each member be able to participate in the vote, directly or indirectly, on the appointment of the officers.
3. The articles of association may provide that one or more officers, on condition that their number be less than half, shall be appointed by persons other than the members.
4. If the articles of association provide that an officer must be appointed in a meeting from a binding nomination, the nomination may be deprived of its binding nature by means of a resolution of that meeting, adopted by at least two thirds of the votes cast. The articles of association may provide that at least a certain number of votes shall be capable of being cast in this meeting; such number may not be set at higher than two thirds of the number of votes capable of being cast collectively by those entitled to vote.
5. If, pursuant to the articles of association, an officer shall be appointed by members or departments without a meeting being held, then the members must be given an opportunity to nominate candidates. The articles of association may provide that this right shall only be vested in a number of members jointly, provided their number not be set at higher than one fifth of the number of members that can participate in the election. The articles of association may provide, moreover, that the candidates thus nominated shall be appointed only if they have obtained at least a certain number of votes, provided such number not be greater than two thirds of the number of votes cast.
6. An officer, also if appointed for a certain term, may be dismissed or suspended at any time by the body that appointed him. For the purposes of this provision the officers designated at incorporation shall be deemed to have been appointed by the general meeting, unless otherwise provided in the articles of association.
7. Unless otherwise provided by the articles of association, the board shall designate a chair, a secretary and a treasurer from among its number.
8. If article 18 has applied, the provisions laid down in this article shall apply in respect of the appointment of the general management board.

Article 81

1. Subject to the provisions laid down in article 82, all the members who have not been suspended shall have access to the general meeting and each shall be entitled to cast one vote at the meeting. A suspended member shall have access to the meeting dealing with the resolution to suspend, and he shall have the right to speak on the matter. The articles of association may grant more than one vote to certain members.
2. Unless otherwise provided by the articles of association, the chair and the secretary of the board or their substitutes shall also act as such in the general meeting.
3. The articles of association may provide that persons who form part of other bodies of the association and are not members may exercise the right to vote in the general meeting. The number of votes jointly cast by them, however, may not exceed half the number of the votes cast by the members.

4. Unless otherwise provided by the articles of association, a person who is entitled to vote pursuant to paragraphs 1 or 3 may grant a written proxy to another party entitled to vote for the latter to vote in his name.

Article 82

1. The articles of association may provide that the general meeting shall consist of delegates who shall be elected by and from among the members. The method of election and the number of the delegates shall be provided for in the articles of association; each member must be able to participate directly or indirectly in the voting. Article 80, paragraphs 4 and 5 shall apply analogously. Article 81, paragraph 3 shall apply analogously in respect of persons who form part of other bodies of the association and are not delegates.
2. The articles of association may provide that certain resolutions of the general meeting shall be subject to a referendum. The articles of association shall govern the cases in which, the time within which and the manner in which the referendum will be held. Pending the outcome of the referendum, the execution of the resolution shall be suspended.

Article 83

1. The general meeting shall have all the powers in the association that are not granted to other bodies by law or in the articles.
2. A unanimous resolution adopted by all the members or delegates, even if they are not attending a meeting, provided that it is adopted with the prior knowledge of the board, shall have the same effect as a resolution of the general meeting.

Article 84

1. The board shall convene the general meeting as often as it shall deem appropriate, or when required to do so by law or according to the articles of association. The articles of association may also grant these powers to others than the board.
2. The board shall be obliged, at the written request of at least the number of members or delegates authorised to cast one tenth of the votes in the general meeting or such smaller number as provided in the articles of association, to convene a general meeting to be held within no more than four weeks after submission of the request.
3. If the request is not acted upon within fourteen days then, unless the articles of association otherwise provide for the method of convening the general meeting for this case, the applicants may proceed to convene the meeting themselves in accordance with the procedure followed by the board for convening the general meeting or by means of a notice placed in at least one daily newspaper. The applicants may then charge others than the officers with the direction of the meeting and the keeping of minutes.
4. Unless otherwise provided in the articles of association, the meeting shall be held in Sint Maarten.

Article 85

Articles 80 to 84, inclusive, shall apply analogously in respect of the departments of an association that are not legal entities, and that have a general meeting and a board. The provisions in these articles regarding the articles of association may be laid down in department regulations.

Article 86

1. Without prejudice to the provisions in article 5, the articles of association of the association cannot be amended other than pursuant to a resolution of a general meeting, which has been convened with notice that a motion will be put there to amend the articles of association. The term of notice for convening such a meeting shall be at least seven days, not counting the day of convocation nor that of the meeting.
2. The parties who issued the notice convening the general meeting for the purpose of considering a proposal to amend the articles of association shall be obliged to deposit a copy of the proposal, stating verbatim the proposed amendment, at a place suitable for this, for inspection by the members at least five days prior to the meeting until the end of the day on which the meeting is held. The proposal shall be notified to the departments constituting the association and to delegates at least fourteen days prior to the meeting; the first sentence shall not then apply.
3. The provisions of paragraphs 1 and 2 shall not apply if all the members or delegates are present or represented at the general meeting and the resolution to amend the articles of association is adopted by unanimous vote.
4. The provisions of this article and of article 87, paragraphs 1 and 2 shall apply analogously in respect of a resolution to dissolve.

Article 87

1. Unless otherwise provided by the articles of association, a resolution to amend the articles of association shall require at least two thirds of the votes cast.
2. Insofar as the competence to introduce amendments should be excluded in the articles of association, amendment shall nevertheless be possible by unanimous vote in a meeting at which all the members or delegates shall be present or represented.
3. A provision in the articles of association limiting the competence to introduce amendments to one or more other provisions may be amended only with due observance of equal limitation.
4. A provision in the articles of association excluding the competence to introduce amendments to one or more other provisions may be amended only by unanimous vote in a meeting at which all the members or delegates shall be present or represented.

Article 88

Insofar as not otherwise issuing from the articles of association, the association may stipulate rights for the members and, insofar as this shall be expressly provided in the articles of association, enter into obligations to their charge. It may demand compliance with rights stipulated toward and damages to be paid to a member, unless the member opposes this.

Article 89

1. Within eight months of the end of the financial year, unless this term is extended by the general meeting, the board shall present at a general meeting an annual report on the performance of the association and the policy pursued. It shall submit financial statements, at least consisting of a balance sheet, an income statement and notes to these documents to the meeting for approval. The financial statements shall be signed by the officers and, if appointed, the supervisory board members; if the signature of any one or more of them should be missing, this shall be noted and the reasons shall be given. On the expiry of this term, any member may demand at law that the joint officers perform these obligations.
2. If there is no supervisory board and if no declaration originating from an expert as referred to in article 121, paragraph 1 is submitted to the general meeting as regards the truth and fairness of the documents, the general meeting shall appoint each year a committee of at least two members who may not form part of the board. The committee shall examine the documents referred to in the second sentence of paragraph 1, and shall report on its findings to the general meeting. The board shall be obliged to provide the committee with all the information it may require for the purposes of its examination, if so required to reveal to it the cash holdings and assets, and also to make the books, records and other information carriers of the association available for its inspection.
3. Articles 119 to 126, inclusive, shall apply analogously in respect of an association to which an enterprise within the meaning of the Trade Register Ordinance belongs, on the understanding that in article 119, paragraph 1, and article 119, paragraph 3, second sentence, "articles 116 and 117" will now read as: article 89, paragraphs 1 and 2.
4. The provisions in article 59 paragraphs 6, 7 and 8 shall apply analogously, unless both the balance sheet total and the income statement total amount to less than ANG 100,000.

Title 4 The cooperative and the mutual insurance association

Article 90

1. The cooperative is a legal entity with members, established by notarial deed as a cooperative. According to its articles of association, its object must be to meet certain material needs of its members pursuant to agreements, other than of insurance, effected with them in the business that it exercises, or causes to be exercised, to that end for their benefit.
2. The mutual insurance association is a legal entity with members, established by notarial deed as a mutual insurance association. According to its articles of association, its object must be to enter into insurance agreements with its members or to keep members and possibly others insured within the framework of a statutory regulation, all this in the insurance business that it shall conduct to that end for the benefit of its members.
3. The articles of association of a cooperative may permit it to effect also with others such agreements as effected by it with its members. This

shall also apply to the articles of association of a mutual insurance association not having a provision as referred to in article 92.

4. If a cooperative or a mutual insurance association exercises the power referred to in paragraph 3, it may not do so to such an extent that the agreements with the members shall be merely of secondary importance.
5. The name of a cooperative shall contain the word "coöperatief" (cooperative) or a derivative thereof, and that of a mutual insurance association the word "onderling" (mutual) or "wederkerig" (reciprocal) or a derivative thereof. If the deed of incorporation is drawn up in a language other than Dutch, then the equivalent of these words may be used in that other language.

Article 91

The provisions of Title 3, with the exception of article 70, paragraph 3, shall apply analogously in respect of the cooperative and the mutual insurance association, insofar as not deviated from in this Title.

Article 92

1. The articles of association may provide that those who were members at the dissolution, or ceased to be members less than one year earlier, shall be liable toward the legal entity for any deficit according to the standards thereby indicated; if a cooperative or a mutual insurance association is dissolved through its insolvency after having been declared bankrupt, then the one-year term shall be reckoned not as from the day of dissolution but as from the day of the bankruptcy order. The articles of association may stipulate a term of longer than one year.
2. If the articles of association do not indicate a standard for the liability of each, then all shall be liable for equal shares.
3. If the amount of the share of the deficit of members or former members cannot be recovered from any one or more of them, the other members and former members shall be liable for the lacking part, each of them in proportion to his share. This liability shall also exist if the liquidators waive the right of recourse against one or more members or former members on the grounds that through the exercise of the right of recourse a benefit would not be acquired for the estate. If the liquidation is effected under the supervision of persons charged by law with such supervision, the liquidators may waive such recourse only with the authorisation of these persons.
4. The members and former members who are liable shall be obliged immediately to pay their share of an estimated deficit, increased by 50 per cent or so much less as the liquidators shall deem sufficient, for the provisional covering of an additional apportionment for the costs of collection and of the share of those who might fail to comply with their obligation.
5. A member or former member shall not be authorised to set off his debt pursuant to this article.

Article 93

1. If the articles of association contain a regulation as referred to in article 92, paragraph 1, they may limit to a maximum the obligation on the members or former members to contribute towards any deficit.
2. If the articles of association do not contain a regulation as referred to in article 92, paragraph 1 then the members or former members shall not be bound to contribute toward any deficit.

Article 94

1. Each year within eight months of the end of the financial year, unless this term is extended by a maximum of six months by the general meeting on the grounds of exceptional circumstances, the board shall prepare the financial statements, at least consisting of a balance sheet, a profit and loss account and notes to these documents.
2. The prepared financial statements shall be signed by all the officers. They shall also be signed by the supervisory board members in office. If any of their signatures are missing, the reason for this shall be noted.
3. The prepared financial statements shall be submitted to the general meeting for approval. The articles of association may provide that the general meeting shall have the authority to amend all or certain items or to require the board to alter the financial statements in line with instructions to be given by the general meeting or a committee from such meeting.
4. The financial statements shall provide insight, according to generally accepted social standards, that allows a true and fair view to be formed of the assets and the results as well as the solvency and liquidity of the cooperative or mutual insurance association, to the extent the nature of financial statements allows for this.
5. Article 15, paragraph 3 shall apply analogously to the prepared and adopted financial statements and the accompanying documents.
6. Articles 119 to 126, inclusive, shall apply analogously, on the understanding that in article 119, paragraph 1, and article 119, paragraph 3, second sentence, "articles 116 and 117" will now read as: article 94, paragraphs 1 to 5, inclusive.

Article 95

1. Cooperatives and mutual insurance associations shall not be authorised to introduce changes, by means of a resolution, in the agreements effected with their members in the conduct of their business, unless they have clearly reserved this right in the agreement. Reference to the articles of association, regulations, general terms and conditions or the like shall not suffice for this purpose.
2. The legal entity may rely toward a member on a change as referred to in paragraph 1 only if the change was notified to the member in writing.

Article 96

The articles of association of the cooperative may, while retaining the freedom to leave the cooperative, attach conditions to such leaving in conformity with the object and purport of the cooperative. Any condition exceeding permissible bounds shall be deemed to such extent not to have been made.

Article 97

A cooperative that has included in its articles of association a provision as referred to in article 92 shall be subject furthermore to the following provisions:

a. Membership shall be applied for in writing. The applicant shall also be informed in writing whether he has been admitted as a member, or refused membership. If he is admitted, he shall also be informed of the number under which he has been registered as a member in the cooperative's records. Nevertheless, a written application and written notification as referred to above are not required as proof that membership has been acquired.
b. The documents accompanying an application for membership shall be kept by the board for at least ten years. The aforementioned documents need not be kept, however, insofar as they concern persons whose membership can be evidenced by a dated statement, signed by them, in the records of the cooperative.
c. Membership may only be cancelled either by a separate document or by a dated declaration, signed by the member, in the records of the cooperative. The member giving notice to cancel his membership shall receive a written acknowledgement thereof from the board. If the written acknowledgement is not given within fourteen days, the member shall be authorised to repeat the notice of cancellation by bailiff's writ, at the expense of the cooperative.
d. A copy of the list of members, certified by the board, shall be deposited at the office of the Trade Register upon the registration of the cooperative. Within one month from the end of each financial year the board shall add to the list deposited at the office of the Trade Register a written statement of the changes in the list of members that took place in the course of the financial year or, if the Chamber of Commerce shall deem this necessary, a new list shall be deposited.

Article 98

The following provisions shall additionally apply to a mutual insurance association:

a. Persons who as a policyholder have an insurance contract in effect with a mutual insurance association shall by law be members of the mutual insurance association. This provision may be deviated from in the case of the mutual insurance association that, in accordance with its articles of association, may also insure policyholders who are not members.
b. Unless the articles of association provide otherwise, membership arising from an insurance contract shall endure until all the insurance contracts effected by the member with the mutual insurance association shall have terminated. In case of a transfer or passing of the rights and obligations arising under any such agreement, membership insofar as arising from such agreement shall pass to the new acquirer or the new acquirers, subject to any deviating provisions in the articles of association.

Article 99

1. A person not being a cooperative or a mutual insurance association shall be prohibited from conducting business using the designation "coöperatief" (cooperative), "onderling" (mutual) or "wederkerig" (reciprocal), or any derivative thereof.
2. In case of violation of this prohibition, a cooperative or mutual insurance association may demand that, when conducting business, the offending party refrain from using the word objected to, subject to a penalty to be determined by the court.

Title 5 The public limited liability company (*naamloze vennootschap)*

Section 1 General provisions

Article 100

1. The public limited liability company (*naamloze vennootschap*) is a legal entity designated as such with one or more registered shares. Bearer shares may not be issued.
2. The company shall be incorporated by one or more persons, by notarial deed. Upon incorporation, at least as many shares shall be placed with a founder or a third party as will allow a right to vote to be exercised on any topic and at least one share participating in the profit.
3. Rights that include neither voting rights nor any claim to distribution as referred to in article 118 shall not be regarded as shares.

Article 101

1. Without prejudice to the provisions in article 4, paragraph 2, the deed of incorporation shall include at a minimum:
   a. the numbers and classes of the shares issued upon incorporation, as well as the names and places of residence of the persons who have taken these shares;
   b. the amount or the value of each payment on shares and the modalities of the payment obligation and that it has been met.
2. A declaration of all the founders that the company's equity capital is not negative upon incorporation shall be included in or attached to the deed of incorporation.
3. If shares are paid up other than in money, a balance sheet on formation, signed by all the founders and showing an equity capital that is not negative, shall furthermore be attached to the deed. The balance sheet on formation shall relate to a moment that is not more than three months before the date of the deed.
4. If the company has a nominal capital upon incorporation, then, on applying paragraphs 1 and 2, the amount of such capital shall be taken into consideration as a lower limit.
5. The deed shall be signed, in person or by written proxy, by each founder and by every person taking one or more shares as evidenced by the deed.

Article 102

1. The articles of association shall state the name of the company, Sint Maarten as the place where the company has its registered office and

the object of the company. The name shall commence or end with the words “naamloze vennootschap” (public limited liability company), written either in full or abbreviated to “N.V.” or "NV". The name may not be stated other than in Latin script characters.

2. The articles of association may provide for different classes of shares. They may allot a nominal value to one or more classes. The nominal value may be stated in one or more foreign currencies, provided however that the same foreign currency is always used for each class.
3. The nominal capital shall be the sum of the nominal values of the issued shares. The nominal value may be cancelled or altered through an amendment to the articles of association. An increase of the nominal value shall not be possible if it results in the nominal capital exceeding the company’s equity capital or the nominal capital already exceeds the company's equity capital.
4. If according to the articles of association there are different classes of shares or shares with a different nominal value, they shall contain provisions with respect to the voting and distribution rights attached to these and other shares.
5. By way of derogation from article 3, paragraph 2, the articles of association may provide that holders of all the shares, or of a specific class of shares, shall be personally liable, whether or not jointly and severally, for certain or all the debts of the company. In that case the right of inspection referred to in article 109, paragraph 4 shall be vested in every interested party. Every interested party may furthermore require that he be provided with an extract from the register, certified by the board of directors of the company, stating the information relevant to him. A resolution to amend the articles of association, resulting in the introduction, modification or abolition of such personal liability, may be adopted only with the express consent of all the shareholders and all those entitled to vote.
6. A third party for whose benefit a provision as referred to in paragraph 5 is included in the articles of association may hold the shareholder concerned directly liable under such provision, unless this possibility is excluded in the provision. The company may demand performance from the third party at any time, unless this is opposed by such third party.
7. If due to an amendment to the articles of association a liability provision as referred to in paragraph 5 is abolished or modified, so that the liability of one or more shareholders terminates or is reduced, then such abolition or modification shall be effective also in respect of existing debts, on the understanding however that regarding such debts the termination or reduction of the liability shall not take effect until six months from the time when, following the amendment to the articles of association, in respect of the shareholder concerned a corresponding annotation was entered in the register referred to in article 109, without prejudice to the provisions in the Trade Register Ordinance. The articles of association may extend this period or replace it with a longer prescriptive period.
8. If a shareholder, who is subject to liability by virtue of a provision in the articles of association as referred to in paragraph 5, ceases to be a shareholder then his liability in respect of existing debts shall also cease, on the understanding however that regarding such debts the termination of the liability shall not take effect until six months from the time when, following the termination of his share ownership, an annotation to that effect was made in the register referred to in article

109. The articles of association may extend this period or replace it with a longer prescriptive period.

Section 2 The shares

Article 103

1. Insofar as not otherwise provided by law or in the articles of association, equal rights and obligations shall attach to all the shares.
2. The articles of association may provide that in respect of shares of one or more classes sub-shares may be issued, and these shall represent the fraction of a share as stated at the time of issue.
3. The provisions of this Book regarding shares and shareholders shall apply analogously in respect of sub-shares and the holders thereof to the extent not stipulated otherwise in those provisions.
4. Unless otherwise provided by the articles of association, for the purposes of article 129, paragraph 1, and article 132, paragraph 1, sub-shares in the aggregate representing at least one or more shares shall constitute so many shares, irrespective of the entitlement to the sub-shares.

Article 104

1. The general meeting or another body designated for that purpose in or pursuant to the articles of association shall be authorised, following the incorporation, to resolve on the issue of new shares. The subsequent issue shall be effected by means of a deed signed by the company and the acquirer, or by means of a declaration of issue sent to the acquirer by or on behalf of the company and a declaration of acceptance of the same sent, whether or not in advance, to the company by the acquirer. Article 15, paragraph 3 shall apply analogously in respect of the documents referred to in this paragraph.
2. The issue shall not be effected until the acquirer's identity has been established and this identity has been verified by the company on the basis of documents, data or information from a reliable and independent source. Copies of the documents shall be kept with the register referred to in article 109.
3. The issue of listed shares, also including shares that are admitted to a listing on a stock exchange immediately following the issue, may also be effected in accordance with the system commonly used by that stock exchange or permitted by the stock exchange.

Article 106

1. The articles of association may provide that, whether or not pursuant to a resolution of a body designated for that purpose, upon the issue of certain or all the shares certain or all the shareholders shall have a preferential right in a proportion to be determined in that regard.
2. In the event that shares with preferential rights are issued, this shall be announced to all the shareholders, with analogous application of article 131, paragraph 1. The preferential right may be exercised during at least two weeks after the announcement.

Article 107

1. The acquirer of a share shall be obliged to pay the consideration as determined in the deed of incorporation or the resolution to issue. If shares are to be paid up other than in money, the deed of incorporation or the deed of issue shall reflect the value of the payment in an amount. The value shall be determined with due regard for the generally acceptable standards. If shares with a nominal value are acquired, the value of the consideration shall be at least the nominal amount of the share.
2. A payment for shares other than in money shall be made immediately following the incorporation or issue. With regard to a payment for shares in money, the deed of incorporation, the articles of association or the resolution to issue may provide that the amount due, or any part thereof, will not become due and payable until after the lapse of a certain period of time or will be due and payable only upon a resolution to that effect of a body designated in such deed, articles or resolution. If a provision as referred to above is lacking, the payment must be made on the incorporation or issue.
3. Insofar as the company’s demand for fulfilment of a payment obligation is not unconditionally due to be met within one year, such demand shall be left aside when calculating the company’s equity capital as referred to in this Book.
4. An obligation to make an additional payment shall be defined in law as meaning any payment obligation that is not immediately and unconditionally due and payable. In the case of shares with a nominal value, no obligation to make an additional payment can exist in respect of the nominal amount.
5. Save for an exemption from the obligation to make an additional payment in accordance with article 115, the holder of a share cannot be exempted from his obligations under this article. In the event of alienation of a share, the alienator shall remain jointly and severally liable, alongside the acquirer, for another year with regard to the obligations under this article.
6. In respect of a payment obligation, the company's co-contracting party may never claim any set-off.
7. The liquidator of a company and, in case of bankruptcy or dissolution ordered by a court in accordance with article 24 or 25, the trustee in bankruptcy, shall be authorised to call and collect all outstanding payments on the shares. This authority shall apply irrespective of any provisions in that respect in accordance with paragraph 2 of this article. If, however, it follows from the provision that a payment needs first to be effected at a time after the date of adjudication of bankruptcy or dissolution, it shall be sufficient for the cash value thereof to be settled on the date of the adjudication of bankruptcy or dissolution.

Article 108

1. A registered share certificate shall be issued to the acquirer or holder of a registered share, at his request. The date of issue and all the information relating to the share, which should be entered in the shareholders' register on the date of issue pursuant to article 109, paragraph 1, shall be stated on the share certificate.

2. An extract from the shareholders' register made out in the name of the shareholder, as referred to in article 109, which contains the information relating to such shares, may also be deemed to constitute a share certificate.
3. It may not be invoked or held against the later acquirer in good faith that the information stated thereon by or on the instruction of the company is incorrect or incomplete, without prejudice to the company's liability for any loss and/or damage sustained by the acquirer in good faith if the incorrectness or incompleteness is attributable to the company.

Article 108a

1. With regard to all the shares or all the shares of a particular class, the articles of association may:
   a. provide that undertakings under the law of obligations, toward the company or third parties or between shareholders, are attached to the share ownership;
   b. attach requirements to the share ownership;
   c. contain a provision as referred to in article 257.
2. If the articles of association contain an undertaking under the law of obligations toward third parties, the right of inspection referred to in article 109, paragraph 4 shall be vested in every interested party. Every interested party may furthermore require that he be provided with an extract from the register, certified by the board of directors of the company, stating the information relevant to him. Article 102, paragraphs 6 to 8, inclusive, shall apply analogously.
3. A resolution to amend the articles of association, resulting in the introduction of a provision as referred to in paragraph 1 under a, b or c may be adopted only with the express consent of all the shareholders and all those entitled to vote. A resolution to amend the articles of association, resulting in the amendment of an undertaking as referred to in paragraph 1 under a or c may be adopted only with the express consent of all those who are or will become subject to the undertaking.

Article 109

1. The board shall keep a register in which the name and address of every holder of registered shares shall be entered, stating the class of share, the voting rights attached to these shares, the amount paid up on these shares (or shown as having been paid up), any outstanding payment obligation, stating whether it concerns an obligation to make an additional payment and, if so, the modalities thereof, the date and modalities of acquisition, the liability (if any) under article 102, paragraph 5, and article 108a, paragraph 1, and whether or not a share certificate has been issued. The information with respect to the creation or transfer of a right of usufruct in the shares and the creation of a right of pledge in the shares as well as with respect to the corresponding devolution of the voting rights shall also be noted. The name and address of the usufructuary and pledgee shall be stated in the register. Similar information regarding those entitled to attend meetings who are not a shareholder, pledgee or usufructuary shall also be stated.
2. The register shall be updated on a regular basis. The date of any changes made shall be stated.

3. Shareholders and others on whom information must be included in the register shall provide the board of directors with the necessary information in a timely manner. To the extent not previously undertaken, they shall also provide the board of directors with further details and information as referred to in article 104, paragraph 2, and they shall submit the documents referred to therein. Copies of the documents shall be kept with the register.
4. Shareholders and others on whom information has been included in the register shall be entitled to inspect the register. The articles of association may grant the right of inspection to others. They may also restrict the right of inspection to the information concerning the rights accruing to or vested in the party requesting inspection. They may also provide that the party concerned is only entitled to receive an extract from the shareholders' register containing the information relating to him.
5. Unless otherwise provided in the articles of association, the shareholders' register may:
   a. be kept by a third party under the responsibility of the board of directors;
   b. be kept in electronic form.

Article 110

1. Shares shall be transferable, subject to the provisions in article 111 and as laid down elsewhere by law.
2. The transfer of shares shall be effected by a deed of transfer signed by the parties and either the serving of such deed on the company or the acknowledgement of the transfer by the company. Acknowledgement shall take place by means of a signed annotation on the deed of transfer or a written declaration of the company, addressed to the acquirer. In the case of shares that have not yet been fully paid up, the acknowledgement can take place only if the deed of transfer bears a fixed date.
3. If a share certificate has been issued by the company, this document, bearing an annotation for transfer signed by the parties, may constitute the deed of transfer.
4. The articles of association may provide that, if a share certificate has been issued by the company, only a document as referred to in paragraph 3 may constitute the deed of transfer. They may also provide that acknowledgement or service can take place only following the surrender of the share certificate issued, without prejudice to the right of the successive shareholder to receive a share certificate issued in his name in accordance with article 108, paragraph 1 or 2. In both cases there shall be an exception to the rule, if the transferor proves to the company’s satisfaction that his share certificate has been lost. The transferor invoking this provision shall be liable toward the company and third parties for any and all resulting loss or damage to be sustained.
5. With respect to fully paid up shares, the articles of association may provide that a transfer may also be effected by means of a written declaration by the party entitled to the share addressed to the company giving notification of the transfer, with a subsequent written declaration by the acquirer addressed to the company, followed by a written declaration of acknowledgement issued by the company and addressed to both parties.

6. The transfer and the date thereof shall be noted in the register referred to in article 109.
7. The transfer of shares listed on a stock exchange may also be effected in accordance with the system commonly used by that stock exchange or permitted by the stock exchange.

Article 111

1. The transferability of shares may be restricted or excluded in the articles of association. The same shall apply to the possibility of assigning shares from a community of property.
2. A transfer or assignment that is contrary to a provision as referred to in paragraph 1 shall be invalid, unless it has the consent of all the shareholders.
3. In the event of an attachment under a warrant of execution, bankruptcy, the granting of a specific legacy, an assignment from a community of property or a pledge, the court may declare the provisions referred to in paragraph 1 to be inapplicable, whether in whole or in part. A request to this effect may be made by the execution creditor, the trustee in bankruptcy or an interested party in the granting of the specific legacy or the assignment or the pledgee, as the case may be. The court shall grant the request, if necessary by way of derogation from the provisions in Article 474g, paragraph 4 of the Code of Civil Procedure, only if the interests of the applicant specifically require this and the interests of others are not disproportionately harmed as a result. The court may direct that the company grant the execution creditor or the trustee in bankruptcy leave to inspect the register referred to in article 109.

Article 112

1. The right to establish a usufruct on shares may not be restricted or excluded in the articles of association.
2. Unless otherwise provided upon the establishment of the usufruct, the voting rights and other control rights shall be vested in the shareholder. The articles of association may restrict or exclude the grant of these rights to the usufructuary.
3. In the case of a usufruct as referred to in articles 19 and 21 of Book 4 the voting rights shall be vested in the usufructuary, unless otherwise provided upon the establishment of the usufruct or by the court in accordance with article 23, paragraph 4 of Book 4.

Article 113

1. The right to create a pledge on shares may be restricted or excluded in the articles of association. Article 111, paragraph 2 shall apply analogously.
2. To the extent that the contrary shall not result from a provision as referred to in paragraph 3, the rights attached to the share shall be vested in the shareholder.
3. Unless otherwise provided in the articles of association, it may be provided upon the creation of the pledge or in a supplementary deed between the shareholder and the pledgee that the rights attached to the shares shall be vested in the pledgee, whether or not conditionally and whether in whole or in part.

4. If a pledge is created with application of article 236, paragraph 2 of Book 3 and subsequently a provision as referred to in paragraph 3 is made in a supplementary deed, then the validity of such deed shall require that article 110, paragraph 2 shall have applied analogously. Article 110, paragraphs 3, 4 and 6 shall also apply analogously.
5. By way of derogation from article 236, paragraph 2 of Book 3, a pledge on shares may also be created without service or acknowledgement as referred to in article 110. Article 239 of Book 3 shall apply analogously.

Article 114

1. The company may not subscribe for its own shares.
2. Without prejudice to the provisions in Title 7, the articles of association may exclude, restrict or make subject to conditions the acquisition by the company of its own shares from third parties. So long as the company holds shares, directly or indirectly in its own capital, the rights attached to those shares shall not be capable of being exercised.
3. Article 118, paragraphs 5, 6 and 7 shall apply analogously in respect of the acquisition by the company of its own shares. Upon the acquisition of shares with a nominal value that are cancelled immediately following payment to the shareholder and acquisition by the company, the nominal capital following such cancellation shall be deemed to constitute the lower limit referred to in article 118, paragraph 7.
4. The articles of association may provide that in cases specified in the articles of association the company shall be obliged to purchase and acquire its own shares from one or more shareholders on conditions that are stipulated in the articles of association or pursuant to the articles of association will be determined by independent experts.
5. The company may, by means of a resolution to that effect of the general meeting or another body designated by the articles of association, cancel the shares held by the company in its own capital.

Article 115

The general meeting or another body designated by the articles of association may resolve in respect of all the shares or a particular class of shares to effect full or partial repayment of a payment that has been made or full or partial exemption from the payment obligation. Article 118, paragraphs 5, 6 and 7 shall apply analogously.

Section 3 The financial statements

Article 116

1. Each year within eight months of the end of the financial year, unless this term is extended by a maximum of six months by the general meeting on the grounds of exceptional circumstances, the board shall prepare the financial statements, at least consisting of a balance sheet, a profit and loss account and notes to these documents.
2. The prepared financial statements shall be signed by all the officers. They shall also be signed by the supervisory board members in office. If any of their signatures are missing, the reason for this shall be noted.
3. The prepared financial statements shall be submitted to the general meeting for approval. The articles of association may provide that the

general meeting shall have the authority to amend all or certain items or to require the board to alter the financial statements in line with instructions to be given by the general meeting or a committee from such meeting.

4. The financial statements shall provide insight, according to generally accepted social standards, that allows a true and fair view to be formed of the assets and the results as well as the solvency and liquidity of the company, to the extent the nature of financial statements allows for this.
5. Article 15, paragraph 3 shall apply analogously to the prepared and adopted financial statements and the accompanying documents.
6. Each shareholder and each holder of bearer debt instruments shall be entitled to inspect the documents kept in accordance with paragraph 5 during two years from the time the financial statements were drawn up or, as the case may be, approved.

Article 117

1. The general meeting or another body designated for that purpose in the articles of association shall be authorised to appoint an external expert for the purpose of supervising the bookkeeping on a regular basis, as well as reporting to the general meeting on the financial statements prepared by the board of directors.
2. The expert shall be entitled to inspect all the books, records and other information carriers of the company, the examination of which shall be necessary for the correct performance of his duties. Other than as required pursuant to the instructions given him, he shall not be permitted to disclose any information regarding the company's business as appearing or as communicated to him.
3. The expert shall also make his report known to the board of directors, the supervisory board and the body that appointed him.

Article 118

1. Directly connected with the approval of the financial statements, the general meeting or another body designated in the articles of association shall decide on the distribution or reservation of the profit according to the financial statements and on the paying of any other distributions to be charged to the equity capital according to the financial statements.
2. The general meeting or another body designated in the articles of association may resolve to pay interim distributions charged against a current financial year or charged against a closed financial year for which the financial statements have not yet been approved.
3. To the extent not otherwise provided in the articles of association, each share shall grant entitlement to receive an equal amount at each distribution and each sub-share shall grant entitlement to receive the corresponding fraction of such amount. The articles of association may provide that the shares held by the company itself shall be taken into account when calculating the payment of distributions. The articles of association may leave the paying of distributions, whether in whole or in part, to a body designated for that purpose.
4. The right to payment of a distribution shall lapse upon the expiry of a period of three years from the end of the day on which either that right was adequately publicised, or the party entitled to the distribution took

cognisance thereof or was notified accordingly. The articles of association may extend this period or replace it with a longer prescriptive period.

5. Distributions to shareholders and other parties entitled to distributions may not be made if the company's equity capital is negative or would become negative due to the distribution. A resolution to make any such distribution shall have no legal effect whatsoever. Article 22, paragraph 2 shall not apply, unless the distribution has been paid to the person or party who is in lawful possession of a share that is traded on a stock exchange or a right attached thereto.
6. A distribution as referred to in this article shall be presumed to have been paid in contravention of the first sentence of paragraph 5 if the financial statements of the financial year against which the distribution is paid, with due observance of such distribution shows an equity capital that is negative. In the case of a distribution as referred to in paragraph 1, the presumption shall be irrefutable.
7. If the company has a nominal capital then, on applying paragraph 5, the amount of such capital shall be taken into consideration as a lower limit.

Section 4 The financial statements for the large company

Article 119

1. For a company that complies with each of the criteria set forth in paragraph 2 on or around a certain balance sheet date, shall apply in lieu of articles 120 up to and including article 126 in the financial year following the financial year indicated by this balance sheet date.
2. The criteria referred to in paragraph 1 are:
   a. the company shall employ in Sint Maarten at any time in the period between one month before and one month after the balance sheet date at least twenty employees, collectively working at least twenty man-days, engaged under an employment contract with the company, a group company of the company, a temporary employment agency or a similar institution;
   b. the value of the assets, according to a balance sheet drawn up with due observance of article 120, paragraph 3, shall amount to more than ANG 5 million or the equivalent thereof in foreign currency;
   c. the net turnover during the preceding financial year, calculated with due observance of the financial statements prepared in accordance with article 120, paragraph 3, shall amount to more than ANG 10 million or the equivalent thereof in foreign currency.
3. A company that fails to comply with each of the criteria set forth in paragraph 2 may declare articles 120 to 122, inclusive, applicable in its articles of association, whether or not together with articles 123 and 124. In these cases, articles 125 and 126 also shall apply, and articles 116 and 117 shall not apply.
4. The amounts referred to in paragraph 2 may be adjusted in a National Decree containing general measures, whenever prompted by price developments.

Article 120

1. Each year within six months of the end of the financial year, unless this term is extended by a maximum of six months by the general meeting

on the grounds of exceptional circumstances, the board of directors shall prepare the financial statements and an annual report and shall deposit these documents at the company's office for inspection by all the shareholders. The documents shall be drawn up in the language of the articles of association, unless the general meeting has resolved otherwise beforehand.

2. The board shall add to the financial statements: the most recent financial statements available with the statement by experts pertaining thereto, if any, and the annual report of the subsidiaries insofar as these are not consolidated unless, as appears from the notes to the financial statements, the presentation of this information is of negligible importance for the insight to be provided by the company, as referred to in paragraph 3.
3. The financial statements shall be drawn up in accordance with the financial reporting standards laid down by the International Accounting Standards Board (IASB) and shall provide such insight as to allow a true and fair view to be formed of the assets and the results as well as the solvency and liquidity of the company, to the extent the nature of financial statements allows for this. The company may prepare the financial statements in accordance with other internationally accepted standards, provided that the notes state the well-founded reasons underlying this decision and the standards according to which the financial statements have been prepared.
4. The prepared financial statements shall be signed by all the officers. They shall also be signed by the supervisory board members in office. If any of their signatures are missing, the reason for this shall be noted.
5. The annual report shall provide a true and fair view of the position as at the balance sheet date and the course of affairs and performance during the financial year of the company and of the subsidiaries whose financial data have been included in its financial statements. The annual report shall also contain information on events of special importance that occurred after the end of the financial year and shall furthermore provide notification of anticipated developments. The annual report may not conflict with the financial statements.
6. The annual report shall be submitted to the general meeting promptly following the end of the period of time referred to in paragraph 1. At the same time, the prepared financial statements shall be submitted to the general meeting for approval. The articles of association may provide that the general meeting shall have the authority to amend all or certain items or to require the board to alter the financial statements in line with instructions to be given by the general meeting or a committee from such meeting.
7. Article 15, paragraph 3 shall apply analogously in respect of the annual report, the prepared and approved financial statements and the documents pertaining thereto.

Article 121

1. The company shall engage an external expert, who is qualified to render the report referred to in paragraph 5 of this article, to audit the financial statements. The engagement may be given to an organisation in which experts who may be designated work together.
2. The general meeting shall be authorised to issue the engagement. If it fails to do so, the supervisory board, or if the supervisory board is

absent or defaults, the board of directors shall be authorised to issue the engagement.

3. The expert shall examine whether the financial statements meet the requirements laid down in article 120, paragraph 3. He shall also verify whether, to the extent that he can assess this, the annual report has been prepared in conformity with the provisions in article 120, paragraph 5, and whether it is consistent with the financial statements.
4. The expert shall be entitled to inspect all the books, records and other information carriers of the company, the examination of which shall be necessary for the correct performance of his duties. Other than as required pursuant to the instructions given him, he shall not be permitted to disclose any information regarding the company's business as appearing or as communicated to him.
5. The expert shall report his findings to the body that appointed him, the board of directors and, if in office, the supervisory board. He shall record the results of his audit in a written statement, in which he shall give his opinion regarding the truth and fairness of the financial statements and any shortcomings as became manifest.
6. A chartered accountant (*registeraccountant*) or an accounting consultant (*accountant-administratieconsulent*) as recognised under regulations in the Netherlands, a certified public accountant as recognised under regulations in the United States of America as well as a person admitted by the Minister in charge of Economic Affairs by revocable licence as an expert on the strength of a certificate showing that the person concerned meets the qualification requirements shall be competent to render the report referred to in paragraph 5. These qualification requirements must be at a level equivalent to those of the aforementioned chartered accountant, accounting consultant or certified public accountant. The Minister may attach conditions to the licence.
7. The financial statements may be approved by the general meeting only after it has had the opportunity to take cognisance of the expert's opinion, which shall be attached to the financial statements.

Article 122

1. The company shall be obliged within eight days from the approval of the financial statements and during two years thereafter to deposit a full copy of the financial statements, including an annotation of the date of approval, as well as of the annual report and the expert's opinion at the company's office for inspection by interested parties.
2. If the financial statements have not been approved within two months from the end of the term prescribed in article 120, paragraph 1 for their preparation, the prepared financial statements shall be deposited at the company's office promptly for inspection by interested parties, together with the annual report and the expert's opinion.
3. Notification that the aforementioned documents have been made available for inspection as referred to in paragraphs 1 and 2 shall be made promptly to the office of the Trade Register, in the case of paragraph 2 with the annotation that the financial statements concerned have not been approved.
4. The articles of association may provide that an interested party wishing to inspect the documents shall be obliged to be represented by a person referred to in article 121, paragraph 6. If this is the case, this

provision shall be stated in the notification to the office of the Trade Register as referred to in paragraph 3.

5. An interested party entitled to inspect the documents or his representative shall be furnished, at cost and at his request, with a copy of the documents deposited for inspection.
6. Paragraphs 1 to 5, inclusive, of this article shall not apply in respect of the company that, with due observance of the terms and associated requirements referred to in paragraphs 1 to 3, inclusive, deposits its approved or prepared financial statements at the office of the Trade Register for inspection by anyone.

Article 123

The obligations incumbent on a company, as stated in article 122, shall not apply if:

a. the financial data of the company for the financial year concerned have been consolidated by another legal entity or a contractual company in financial statements meeting the standards laid down in article 120, paragraph 3; and
b. the other legal entity or contractual company referred to under a. has declared in writing that it assumes joint and several liability in respect of the company's debts arising from legal acts, which debts result or will result within two years from the end of the financial year referred to under a., stating the date of the end of that financial year; and
c. the declaration referred to under b. has been deposited at the office of the Trade Register where the company is listed within six months from the end of the financial year referred to under a.; and
d. within six months from the balance sheet date of the consolidated financial statements referred to under a., or at a later time as allowed pursuant to article 122, the consolidated financial statements are deposited at the office of the company or the Trade Register referred to under c., with analogous application of article 122.

Article 124

1. The obligations incumbent on a company, as stated in article 121, shall not apply if the conditions of article 123 have been met and, moreover, all the shareholders have declared in writing during the financial year, or within six months from the end of the financial year, that they agree to this.
2. In the case referred to in paragraph 1, no annual report need be drawn up; furthermore, article 120, paragraph 3 also need not be applied, provided that the financial statements consist of at least a balance sheet, a profit and loss account and notes to these documents and the same provide insight that allows a true and fair view to be formed of the assets and the results as well as the solvency and liquidity of the company, to the extent the nature of financial statements allows for this.

Article 125

1. If through financial statements or through interim figures, published by the company in accordance with article 122 or otherwise, a misleading impression is given of the company's situation, the directors and

supervisory board members shall be jointly and severally liable toward third parties for any resulting loss and/or damage sustained by such parties. The director or supervisory board member who proves that this is not attributable to any failure or shortcoming on his part, shall not be liable.

2. Paragraph 1 shall apply analogously if loss or damage was sustained due to the financial statements not having been drawn up or published in good time.
3. For the purposes of this article, a person who has determined or jointly determined, wholly or in part, the contents of the financial statements as if he were a director, or pursuant to article 120, paragraph 6, third sentence, shall be considered equivalent to a director.

Article 126

1. Any interested party may institute an action at law against the company for it to comply with the obligations set forth in article 120, paragraphs 1, 2 and 6, article 121, paragraph 1, and article 122.
2. Any interested party holding the view that the financial statements do not, or the annual report does not, conform to the provisions in article 120, paragraph 3 or 5, or article 124, paragraph 2, may institute an action at law against the company for it to organise or supplement these documents in accordance with the directions to be given by order of the court. Such action may also relate to financial statements that have not yet been approved. It may also be instituted by the Public Prosecutors Office in the public interest.
3. The action referred to in paragraph 2 must be instituted within six months of the obligation to publish being fulfilled. It may also be instituted prior to the publication. The petition shall state in what respect the financial statements or the annual report require revision. The court shall decide only after having given the expert who was charged with auditing the financial statements the opportunity to be heard on the matter of the subjects referred to in the action.
4. Insofar as the court allows the claim, it shall give the company an order regarding the manner in which the company must organise the financial statements or the annual report; the order shall contain precise instructions in that regard.
5. The court may rule, also officially, that the order shall also relate to, or exclusively relate to, one or more sets of future financial statements or annual reports. At the company’s request, the court may repeal or amend this order in the light of changed circumstances. The court shall decide on this matter only after having given the party, at whose request the order was given, the opportunity to be heard.
6. If the order concerns approved financial statements, the order shall revoke such approval. The court may limit the consequences of the revocation.

Section 5 The general meeting

Article 127

1. Unless otherwise provided in the articles of association, the general meeting shall have, within the limits provided by law and in the articles of association, all such powers as not granted to the board of directors or to others.

2. The shareholders may lay down further rules in a shareholders' agreement regarding their relationship with one another and the manner in which they shall exercise their powers as shareholders.
3. Where provided by the articles of association, the company may enter into a corporate agreement. An agreement between the company and its shareholders shall be deemed to constitute such an agreement provided that the following conditions are met:
   a. the agreement is laid down in writing;
   b. in addition to the company, all the shareholders are party to the agreement;
   c. the board of directors has notified the existence of the corporate agreement in accordance with paragraph 9.
4. Provisions that may be included in the articles of association subject to application of article 1, paragraph 3 may be included in a corporate agreement with the same legal effect, insofar as not otherwise provided by the law, the articles of association or the corporate agreement.
5. Where a corporate agreement applies within a company then the acquisition of the share ownership in that company shall also be deemed to constitute accession as a party to the agreement. If a shareholder loses his share ownership then he shall also lose his position as a party to the corporate agreement.
6. The corporate agreement shall be entered into on behalf of the company by the board of directors with the prior approval of the supervisory board, if in office; it shall be signed by all the directors and jointly signed by all the supervisory board members; if any of their signatures is missing, the reason for this shall be noted at the end of the deed.
7. Article 133, paragraphs 3 to 5, inclusive, shall apply analogously, even where a resolution or resolutions is/are adopted without a meeting being held.
8. Paragraph 4 shall not apply in respect of provisions as referred to in articles 15, paragraph 5, 18, paragraph 1, 19, paragraphs 1 and 4, 102, 103, paragraphs 2 and 4, 108a, paragraph 1 under a, insofar as concerning obligations toward third parties, 122, paragraph 4, 139 and 141, paragraph 3.
9. The board of directors shall notify the existence and the extinction of a corporate agreement at the office of the Trade Register.
10. Provisions in an agreement as referred to in this article shall be invalid insofar as they result in consequences that are contrary to or not consistent with the law or the articles of association.

Article 128

1. Each financial year, at least one general meeting shall be held or at least one resolution shall be adopted in accordance with article 135, paragraph 1 or 3.
2. Unless otherwise provided in the articles of association, any director and any supervisory board member shall be authorised to convene a general meeting. The board and the supervisory board shall always be authorised to convene the general meeting.

Article 129

1. In this Title, the right to attend meetings shall mean the right to attend and address the general meeting, either in person or by another person holding a written proxy.
2. The right to attend meetings shall be vested in each shareholder and each person entitled to vote. The right to attend meetings may also be granted to other persons by or pursuant to the articles of association.
3. The articles of association may permit that with regard to shares without voting rights or with restricted voting rights, the right to attend meetings attached to such shares shall be excluded or restricted accordingly.

Article 130

1. Persons with voting rights who singly or jointly can cast at least ten percent of the votes in respect of a specific matter may request the board of directors or the supervisory board in writing to convene a general meeting in order to deliberate and resolve on that matter, provided they have a reasonable interest therein.
2. If the board of directors or the supervisory board fails to act on any such request within fourteen days from the date on which the request has reached the company or the body concerned, the applicants themselves may act to convene a general meeting. The board of directors shall, for this purpose, allow the applicants to inspect the register referred to in article 109.
3. The notice convening the meeting issued by the persons with voting rights shall not state any other matters to be considered than those originally listed for discussion.
4. The notice convening the meeting and the documents pertaining thereto shall also be sent to each director and each supervisory board member.

Article 131

1. The notice convening a meeting shall be sent in writing and addressed to the persons entitled to attend a general meeting and the directors and supervisory board members. If one or more addresses are unknown, the notice convening the meeting shall also be given by means of an announcement in the National Gazette.
2. The term of notice for convening a meeting shall be at least twelve days, not counting the day of convocation nor that of the meeting. The date of the notice of meeting shall be the date on which the notice is sent or, if this is later, the date on which the notice convening the meeting is inserted in the gazette referred to in paragraph 1.
3. The notice convening a meeting shall state the location of the meeting and the business to be transacted. Items that are proposed to be discussed in good time by a person entitled to vote shall be placed on the agenda, unless this is incompatible with the interest of good order at the meeting. The proposed items for discussion at the meeting shall in any event be notified in the notice convening the meeting.
4. If a proposal is made to amend the articles of association, a copy of the proposal, including the verbatim text of the proposed amendment, shall also be sent or shall be deposited at the office of the company for inspection by the shareholders. The submission for inspection shall be stated in the announcement referred to in paragraph 1.

5. Unless otherwise provided in the articles of association, a meeting shall be held in Sint Maarten. In the case of a company as referred to in article 119, the meeting must be held in Sint Maarten.

Article 132

1. Insofar as not otherwise provided in the articles of association, each share shall entitle the holder to cast one vote in respect of all the items. Voting rights cannot exist separately from a more extensive right to a share. Voting rights may be exercised in person or by another person holding a written proxy.
2. The articles of association may provide that the right to attend meetings and the right to vote may be exercised only by the persons who, on a date laid down in the articles of association, the registration date, held such rights and as such were known to the board of directors of the company. The registration date may not be more than twenty days prior to the date of the meeting. If the shares are traded on a stock exchange, the term referred to in this paragraph may be a maximum of sixty days and the articles of association may leave the establishment of the registration date to a body of the company. The articles of association may therefore prescribe, as a further condition for the exercise of the rights referred to in this paragraph, that the person concerned shall be registered as a right-holder in a register designated by or pursuant to the articles of association on the registration date. If the articles of association include a registration date or a registration date has been laid down pursuant to the articles of association, this shall be stated with the notice convening a meeting.
3. Directors and supervisory board members as such shall have the right to give an advisory opinion in the general meeting and when adopting resolutions without holding a meeting. Insofar as this is not excluded or restricted by the articles of association, they shall also have the right to give an advisory opinion in respect of the adoption of resolutions by holders of a particular class of shares. In that case article 135, paragraph 1, second sentence shall apply analogously.

Article 133

1. Unless otherwise provided in the articles of association, all resolutions shall be passed by an absolute majority of the votes cast.
2. The articles of association may provide that, if there is a tie in voting, the decision shall be passed to another body or a third party.
3. A person appointed by the meeting shall keep minutes of the deliberations and the resolutions adopted. The minutes shall be signed by the chair of the meeting.
4. The signed minutes shall be kept by the board of directors for a period of ten years.
5. Every person entitled to attend a meeting shall be entitled to receive a copy of the minutes.
6. The previous paragraphs shall apply analogously in respect of resolutions by other bodies, on the understanding that the right to receive a copy of the minutes shall be vested in the members of the body concerned. In respect of the minutes of bodies other than the general meeting or the board of directors, the right of inspection referred to in article 15, paragraph 6 may furthermore be denied the

board, in whole or in part, and the body concerned may appoint one of its members or a third party to preserve the minutes.

Article 134

1. Subject to restrictions pursuant to the articles of association and without prejudice to the provisions in article 5, the general meeting shall be authorised to amend the articles of association. A resolution adopted by unanimous vote to amend the articles of association with the cooperation of all the persons entitled to vote shall be valid regardless of the provisions laid down in that respect in the articles of association.
2. A provision of the articles of incorporation that in the given situation would result in there being no persons with voting rights as referred to in paragraph 1 shall be regarded as not written for so long as such situation shall endure.
3. During the company's bankruptcy the articles of association may be amended only with the consent of the trustee in bankruptcy.
4. A resolution to amend the articles of association which will affect the legal status of a person who is involved by law or pursuant to the articles of association in the organisation of the company shall be nullified at the request of the person concerned, provided that such person has a substantial interest in maintaining such legal position. Article 21, paragraphs 4 and 5 shall apply analogously.

Article 135

1. A resolution of the general meeting can also be adopted by votes cast in writing without a meeting being held, provided that all the persons entitled to attend a meeting have consented to this manner of passing resolutions. The directors and supervisory board members shall have the opportunity to issue their advice prior to the adoption of any resolution.
2. Article 133, paragraphs 1 to 5, inclusive, shall apply analogously.
3. If all the shareholders are also directors of the company, the signing of the financial statements by all the directors and supervisory board members shall also constitute approval of the financial statements by the general meeting, provided that all the persons entitled to attend meetings have been given the opportunity to take cognisance of the prepared financial statements and have consented to this manner of giving approval. The articles of association may exclude the manner of approving the financial statements referred to in the first sentence.

Article 135a

1. If no votes may be cast for any of the shares in respect of a proposed resolution of the general meeting, the board of directors shall decide. The articles of association may allow for an alternative provision. This provision may mean that the decision shall be passed to another body or a third party.
2. A provision in the articles of association as referred to in paragraph 1 shall not be applicable if it does not result in a resolution being adopted within a reasonable term.

3. The board of directors shall ensure to the extent possible that a situation such as referred to in paragraph 1 shall be prevented or rectified.

Section 6 The board of directors

Article 136

1. The appointment of directors not designated in the deed of incorporation shall be effected by the general meeting, unless otherwise provided in the articles of association.
2. The body or the person responsible for appointing the director shall be authorised at all times to suspend or dismiss such director. The articles of association may also grant this power to another body. In respect of the directors designated in the deed of incorporation, the powers referred to in the first sentence shall be vested in the general meeting, unless otherwise provided in the articles of association.
3. Unless otherwise provided in the articles of association, the power to determine the remuneration of a director shall be vested in the general meeting.
4. A suspension within the meaning of this article shall be lifted if the person concerned has not been dismissed within two months from the date of suspension.

Article 137

Article 136 shall not apply in respect of the executive directors as such if article 18 has been made applicable in the articles of association.

Article 138

The person who, without forming part of the board of directors, for a certain period of time or under certain circumstances, whether or not pursuant to a provision applying to the company, determines or jointly determines the policy of the company as if he were a director, shall be deemed a director in respect of such actions as far as his obligations in respect of the company and of third parties are concerned, as also for the purposes of article 9.

Section 7 The independent supervisory board

Article 139

If the articles of association provide that there is a supervisory board, they may also provide that the supervisory board shall be independent within the meaning of this article. In that case, articles 140 to 143, inclusive, shall apply by way of derogation from article 19.

Article 140

1. The supervisory board shall consist of at least three natural persons. If there are fewer than three members of the supervisory board, the board of directors, or if the board should fail to do so the supervisory board, shall proceed without delay to make up the number of its members by appointment in accordance with article 141. Supervisory

board members may not hold, directly or indirectly, shares in the company or a group company or any rights derived therefrom.

2. The tasks of the supervisory board shall include at a minimum the supervision of the board of directors In discharging its duties, the supervisory board shall be guided by the interest of the company and its affiliated enterprise. The supervisory board shall see to it that the interests of minority shareholders and employees are not harmed unnecessarily or disproportionately.
3. The supervisory board shall be authorised without restriction to suspend a director. The suspension shall be lifted if the person concerned has not been dismissed within two months from the date of suspension.
4. The supervisory board shall, following consultation with the board of directors, adopt by-laws to further regulate the performance of duties and the adoption of resolutions by the board of directors. Certain categories of acts or resolutions of the board of directors may be subjected to the approval of the supervisory board pursuant to these by-laws.
5. The articles of association may contain supplementary provisions regarding the duties and powers of the supervisory board and its members. Article 11, paragraph 1 may not be deviated from.
6. The board of directors shall provide the supervisory board and the individual supervisory board members in a timely manner with the data necessary for the discharge of their duties or as required by the person concerned with a view to the discharge of those duties.
7. The provisions in articles 9, 14 and 16 shall apply analogously in respect of the supervisory board members.

Article 141

1. A supervisory board member shall be designated in the deed of incorporation or appointed by the general meeting for a period of time to terminate at the end of the first general meeting held after at least three and at most six years have elapsed since his designation or appointment.
2. The authority to appoint a supervisory board member may not be limited other than through the requirements of a quorum, an enhanced majority of up to two thirds of the votes cast, or a binding nomination to be drawn up by the supervisory board itself. A binding nomination may be set aside at any time by a majority of two thirds of the votes cast. A quorum requirement shall not apply in a meeting held within three weeks from the adoption of the resolution to appoint having failed due to such quorum requirement.
3. Unless otherwise provided in the articles of association, the power to determine the remuneration of a supervisory board member shall be vested in the general meeting. The remuneration may not depend on the financial results of the company. It may not consist or jointly consist of shares in the company or a group company or any rights derived therefrom.

Article 142

1. A member of the supervisory board may be suspended or removed by the supervisory board at any time on a motion, not capable of

restriction, of the general meeting or the board of directors or another body designated in the articles of association.
2. At the request of the general meeting, the board of directors, the supervisory board or another body designated in the articles of association, the court may suspend or dismiss a supervisory board member if he manifestly performs his duties improperly, or due to other compelling reasons.
3. The court may, pending the investigation, make arrangements as referred to in article 276, paragraph 4. Article 276, paragraph 3, first sentence, and article 276, paragraphs 5 and 7 shall apply analogously.
4. A suspension shall be lifted if the person concerned has not been dismissed within two months after the suspension.

Article 143

1. In lieu of articles 116 and 117, articles 120 to 126, inclusive, shall apply in respect of the company, regardless of whether it meets the criteria of article 119, paragraph 2.
2. The prepared financial statements referred to in article 120, paragraph 4 shall require the consent of the supervisory board. The supervisory board shall be authorised to make changes in the prepared financial statements, before the financial statements are submitted to the general meeting for approval. A written explanation of the changes shall be provided.

Title 6 The private limited liability company (*besloten vennootschap*)

Section 1 General provisions

Article 200

1. The private limited liability company (*besloten vennootschap*) is a legal entity designated as such with one or more registered shares. Bearer shares may not be issued.
2. The company shall be incorporated by one or more persons, by notarial deed. Upon incorporation, at least as many shares shall be placed with a founder or a third party as will allow a right to vote to be exercised on any topic and at least one share participating in the profit.
3. Rights that include neither voting rights nor any claim to distribution as referred to in article 218 shall not be regarded as shares.

Article 201

1. Without prejudice to the provisions in article 4, paragraph 2, the deed of incorporation shall include at a minimum:
   a. the numbers and classes of the shares issued upon incorporation, as well as the names and places of residence of the persons who have taken these shares;
   b. the amount or the value of each payment on shares and the modalities of the payment obligation and that it has been met.
2. A declaration of all the founders that the company's equity capital is not negative upon incorporation shall be included in or attached to the deed of incorporation.
3. If shares are paid up other than in money, a balance sheet on formation, signed by all the founders and showing an equity capital

that is not negative, shall furthermore be attached to the deed. The balance sheet on formation shall relate to a moment that is not more than three months before the date of the deed.

4. If the company has a nominal capital upon incorporation, then, on applying paragraphs 1 and 2, the amount of such capital shall be taken into consideration as a lower limit.
5. The deed shall be signed, in person or by written proxy, by each founder and by every person taking one or more shares as evidenced by the deed.

Article 202

1. The articles of association shall state the name of the company, Sint Maarten as the place where the company has its registered office and the object of the company. The name shall commence or end with the words “besloten vennootschap” (private limited liability company), written either in full or abbreviated to “B.V.” or "BV". The name may not be stated other than in Latin script characters.
2. The articles of association may provide for different classes of shares. They may allot a nominal value to one or more classes. The nominal value may be stated in one or more foreign currencies, provided however that the same foreign currency is always used for each class.
3. The nominal capital shall be the sum of the nominal values of the issued shares. The nominal value may be cancelled or altered through an amendment to the articles of association. An increase of the nominal value shall not be possible if it results in the nominal capital exceeding the company’s equity capital or the nominal capital already exceeds the company's equity capital.
4. If according to the articles of association there are different classes of shares or shares with a different nominal value, they shall contain provisions with respect to the voting and distribution rights attached to these and other shares.
5. By way of derogation from article 3, paragraph 2, the articles of association may provide that holders of all the shares, or of a specific class of shares, shall be personally liable, whether or not jointly and severally, for certain or all the debts of the company. In that case the right of inspection referred to in article 209, paragraph 4 shall be vested in every interested party. Every interested party may furthermore require that he be provided with an extract from the register, certified by the board of directors of the company, stating the information relevant to him. A resolution to amend the articles of association, resulting in the introduction, modification or abolition of such personal liability, may be adopted only with the express consent of all the shareholders and all those entitled to vote.
6. A third party for whose benefit a provision as referred to in paragraph 5 is included in the articles of association may hold the shareholder concerned directly liable under such provision, unless this possibility is excluded in the provision. The company may demand performance from the third party at any time, unless this is opposed by such third party.
7. If due to an amendment to the articles of association a liability provision as referred to in paragraph 5 is abolished or modified, so that the liability of one or more shareholders terminates or is reduced, then such abolition or modification shall be effective also in respect of existing debts, on the understanding however that regarding such

debts the termination or reduction of the liability shall not take effect until six months from the time when, following the amendment to the articles of association, in respect of the shareholder concerned a corresponding annotation was entered in the register referred to in article 209, without prejudice to the provisions in the Trade Register Ordinance. The articles of association may extend this period or replace it with a longer prescriptive period.

8. If a shareholder, who is subject to liability by virtue of a provision in the articles of association as referred to in paragraph 5, ceases to be a shareholder then his liability in respect of existing debts shall also cease, on the understanding however that regarding such debts the termination of the liability shall not take effect until six months from the time when, following the termination of his share ownership, an annotation to that effect was made in the register referred to in article 209. The articles of association may extend this period or replace it with a longer prescriptive period.

Section 2 The shares

Article 203

1. Insofar as not otherwise provided by law or in the articles of association, equal rights and obligations shall attach to all the shares.
2. The articles of association may provide that in respect of shares of one or more classes sub-shares may be issued, and these shall represent the fraction of a share as stated at the time of issue.
3. The provisions of this Book regarding shares and shareholders shall apply analogously in respect of sub-shares and the holders thereof to the extent not stipulated otherwise in those provisions.
4. Unless otherwise provided by the articles of association, for the purposes of article 229, paragraph 1, and article 232, paragraph 1, sub-shares in the aggregate representing at least one or more shares shall constitute so many shares, irrespective of the entitlement to the sub-shares.

Article 204

1. The general meeting or another body designated for that purpose in or pursuant to the articles of association shall be authorised, following the incorporation, to resolve on the issue of new shares. The subsequent issue shall be effected by means of a deed signed by the company and the acquirer, or by means of a declaration of issue sent to the acquirer by or on behalf of the company and a declaration of acceptance of the same sent, whether or not in advance, to the company by the acquirer. Article 15, paragraph 3 shall apply analogously in respect of the documents referred to in this paragraph.
2. The issue shall not be effected until the acquirer's identity has been established and this identity has been verified by the company on the basis of documents, data or information from a reliable and independent source. Copies of the documents shall be kept with the register referred to in article 209.
3. The issue of listed shares, also including shares that are admitted to a listing on a stock exchange immediately following the issue, may also be effected in accordance with the system commonly used by that stock exchange or permitted by the stock exchange.

Article 206

1. The articles of association may provide that, whether or not pursuant to a resolution of a body designated for that purpose, upon the issue of certain or all the shares certain or all the shareholders shall have a preferential right in a proportion to be determined in that regard.
2. In the event that shares with preferential rights are issued, this shall be announced to all the shareholders, with analogous application of article 231, paragraph 1. The preferential right may be exercised during at least two weeks after the announcement.

Article 207

1. The acquirer of a share shall be obliged to pay the consideration as determined in the deed of incorporation or the resolution to issue. If shares are to be paid up other than in money, the deed of incorporation or the deed of issue shall reflect the value of the payment in an amount. The value shall be determined with due regard for the generally acceptable standards. If shares with a nominal value are acquired, the value of the consideration shall be at least the nominal amount of the share.
2. A payment for shares other than in money shall be made immediately following the incorporation or issue. With regard to a payment for shares in money, the deed of incorporation, the articles of association or the resolution to issue may provide that the amount due, or any part thereof, will not become due and payable until after the lapse of a certain period of time or will be due and payable only upon a resolution to that effect of a body designated in such deed, articles or resolution. If a provision as referred to above is lacking, the payment must be made on the incorporation or issue.
3. Insofar as the company’s demand for fulfilment of a payment obligation is not unconditionally due to be met within one year, such demand shall be left aside when calculating the company’s equity capital as referred to in this Book.
4. An obligation to make an additional payment shall be defined in law as meaning any payment obligation that is not immediately and unconditionally due and payable. In the case of shares with a nominal value, no obligation to make an additional payment can exist in respect of the nominal amount.
5. Save for an exemption from the obligation to make an additional payment in accordance with article 215, the holder of a share cannot be exempted from his obligations under this article. In the event of alienation of a share, the alienator shall remain jointly and severally liable, alongside the acquirer, for another year with regard to the obligations under this article.
6. In respect of a payment obligation, the company's co-contracting party may never claim any set-off.
7. The liquidator of a company and, in case of bankruptcy or dissolution ordered by a court in accordance with article 24 or 25, the trustee in bankruptcy, shall be authorised to call and collect all outstanding payments on the shares. This authority shall apply irrespective of any provisions in that respect in accordance with paragraph 2. If, however, it follows from the provision that a payment needs first to be effected at a time after the date of adjudication of bankruptcy or dissolution, it

shall be sufficient for the cash value thereof to be settled on the date of the adjudication of bankruptcy or dissolution.

Article 208

1. A registered share certificate shall be issued to the acquirer or holder of a registered share, at his request. The date of issue and all the information relating to the share, which should be entered in the shareholders' register on the date of issue pursuant to article 209, paragraph 1, shall be stated on the share certificate.
2. An extract from the shareholders' register made out in the name of the shareholder, as referred to in article 209, which contains the information relating to such shares, may also be deemed to constitute a share certificate.
3. It may not be invoked or held against the later acquirer in good faith that the information stated thereon by or on the instruction of the company is incorrect or incomplete, without prejudice to the company's liability for any loss and/or damage sustained by the acquirer in good faith if the incorrectness or incompleteness is attributable to the company.

Article 208a

1. With regard to all the shares or all the shares of a particular class, the articles of association may:
   a. provide that undertakings under the law of obligations, toward the company or third parties or between shareholders, are attached to the share ownership;
   b. attach requirements to the share ownership;
   c. contain a provision as referred to in article 257.
2. If the articles of association contain an undertaking under the law of obligations toward third parties, the right of inspection referred to in article 209, paragraph 4 shall be vested in every interested party. Every interested party may furthermore require that he be provided with an extract from the register, certified by the board of directors of the company, stating the information relevant to him. Article 202, paragraphs 6 to 8, inclusive, shall apply analogously.
3. A resolution to amend the articles of association, resulting in the introduction of a provision as referred to in paragraph 1, may be adopted only with the express consent of all the shareholders and all those entitled to vote. A resolution to amend the articles of association, resulting in the amendment of an undertaking as referred to in paragraph 1 under a or c may be adopted only with the express consent of all those who are or will become subject to the undertaking.

Article 209

1. The board of directors shall keep a register in which the name and address of every holder of registered shares shall be entered, stating the class of share, the voting rights attached to these shares, the amount paid up on these shares (or shown as having been paid up), any outstanding payment obligation, stating whether it concerns an obligation to make an additional payment and, if so, the modalities thereof, the date and modalities of acquisition, the liability (if any) under article 202, paragraph 5, and article 208a, paragraph 1, and

whether or not a share certificate has been issued. The information with respect to the creation or transfer of a right of usufruct in the shares and the creation of a right of pledge in the shares as well as with respect to the corresponding devolution of the voting rights shall also be noted. The name and address of the usufructuary and pledgee shall be stated in the register. Similar information regarding those entitled to attend meetings who are not a shareholder, pledgee or usufructuary shall also be stated.

2. The register shall be updated on a regular basis. The date of any changes made shall be stated.
3. Shareholders and others on whom information must be included in the register shall provide the board of directors with the necessary information in a timely manner. To the extent not previously undertaken, they shall also provide the board of directors with further details and information as referred to in article 204, paragraph 2, and they shall submit the documents referred to therein. Copies of the documents shall be kept with the register.
4. Shareholders and others on whom information has been included in the register shall be entitled to inspect the register. The articles of association may grant the right of inspection to others. They may also restrict the right of inspection to the information concerning the rights accruing to or vested in the party requesting inspection. They may also provide that the party concerned is only entitled to receive an extract from the shareholders' register containing the information relating to him.
5. Unless otherwise provided in the articles of association, the shareholders' register may:
   a. be kept by a third party under the responsibility of the board of directors;
   b. be kept in electronic form.

Article 210

1. Shares shall be transferable, subject to the provisions in article 211 and as laid down elsewhere by law.
2. The transfer of shares shall be effected by a deed of transfer signed by the parties and either the serving of such deed on the company or the acknowledgement of the transfer by the company. Acknowledgement shall take place by means of a signed annotation on the deed of transfer or a written declaration of the company, addressed to the acquirer. In the case of shares that have not yet been fully paid up, the acknowledgement can take place only if the deed of transfer bears a fixed date.
3. If a share certificate has been issued by the company, this document, bearing an annotation for transfer signed by the parties, may constitute the deed of transfer.
4. The articles of association may provide that, if a share certificate has been issued by the company, only a document as referred to in paragraph 3 may constitute the deed of transfer. They may also provide that acknowledgement or service can take place only following the surrender of the share certificate issued, without prejudice to the right of the successive shareholder to receive a share certificate issued in his name in accordance with article 208, paragraph 1 or 2. In both cases there shall be an exception to the rule, if the transferor proves to the company’s satisfaction that his share certificate has been lost. The

transferor invoking this provision shall be liable toward the company and third parties for any and all resulting loss or damage to be sustained.

5. With respect to fully paid up shares, the articles of association may provide that a transfer may also be effected by means of a written declaration by the party entitled to the share addressed to the company giving notification of the transfer, with a subsequent written declaration by the acquirer addressed to the company, followed by a written declaration of acknowledgement issued by the company and addressed to both parties.
6. The transfer and the date thereof shall be noted in the register referred to in article 209.
7. The transfer of shares listed on a stock exchange may also be effected in accordance with the system commonly used by that stock exchange or permitted by the stock exchange.

Article 211

1. The transferability of shares may be restricted or excluded in the articles of association. The same shall apply to the possibility of assigning shares from a community of property.
2. A transfer or assignment that is contrary to a provision as referred to in paragraph 1 shall be invalid, unless it has the consent of all the shareholders.
3. In the event of an attachment under a warrant of execution, bankruptcy, the granting of a specific legacy, an assignment from a community of property or a pledge, the court may declare the provisions referred to in paragraph 1 to be inapplicable, whether in whole or in part. A request to this effect may be made by the execution creditor, the trustee in bankruptcy or an interested party in the granting of the specific legacy or the assignment or the pledgee, as the case may be. The court shall grant the request only if the interests of the applicant specifically require this and the interests of others are not disproportionately harmed as a result. The court may direct that the company grant the execution creditor or the trustee in bankruptcy leave to inspect the register referred to in article 209.

Article 212

1. The right to establish a usufruct on shares may not be restricted or excluded in the articles of association.
2. Unless otherwise provided upon the establishment of the usufruct, the voting rights and other control rights shall be vested in the shareholder. The articles of association may restrict or exclude the grant of these rights to the usufructuary.
3. In the case of a usufruct as referred to in articles 19 and 21 of Book 4 the voting rights shall be vested in the usufructuary, unless otherwise provided upon the establishment of the usufruct or by the court in accordance with article 23, paragraph 4 of Book 4.

Article 213

1. The right to create a pledge on shares may be restricted or excluded in the articles of association. Article 211, paragraph 2 shall apply analogously.

2. To the extent that the contrary shall not result from a provision as referred to in paragraph 3, the rights attached to the share shall be vested in the shareholder.
3. Unless otherwise provided in the articles of association, it may be provided upon the creation of the pledge or in a supplementary deed between the shareholder and the pledgee that the rights attached to the shares shall be vested in the pledgee, whether or not conditionally and whether in whole or in part.
4. If a provision as referred to in paragraph 3 is made in a supplementary deed, then the validity of such deed shall require that article 210, paragraph 2 shall have applied analogously. Article 210, paragraphs 3, 4 and 6 shall also apply analogously.
5. By way of derogation from article 236, paragraph 2 of Book 3, a pledge on shares may also be created without service or acknowledgement as referred to in article 210. Article 239 of Book 3 shall apply analogously.

Article 214

1. The company may not subscribe for its own shares.
2. Without prejudice to the provisions in Title 7, the articles of association may exclude, restrict or make subject to conditions the acquisition by the company of its own shares from third parties. So long as the company holds shares, directly or indirectly in its own capital, the rights attached to those shares shall not be capable of being exercised.
3. Article 218, paragraphs 5, 6 and 7 shall apply analogously in respect of the acquisition by the company of its own shares. Upon the acquisition of shares with a nominal value that are cancelled immediately following payment to the shareholder and acquisition by the company, the nominal capital following such cancellation shall be deemed to constitute the lower limit referred to in article 218, paragraph 7.
4. The articles of association may provide that in cases specified in the articles of association the company shall be obliged to purchase and acquire its own shares from one or more shareholders on conditions that are stipulated in the articles of association or pursuant to the articles of association will be determined by independent experts.
5. The company may, by means of a resolution to that effect of the general meeting or another body designated by the articles of association, cancel the shares held by the company in its own capital.

Article 215

The general meeting or another body designated by the articles of association may resolve in respect of all the shares or a particular class of shares to effect full or partial repayment of a payment that has been made or full or partial exemption from the payment obligation. Article 218, paragraphs 5, 6 and 7 shall apply analogously.

Section 3 The financial statements

Article 216

1. Each year within eight months of the end of the financial year, unless this term is extended by a maximum of six months by the general meeting on the grounds of exceptional circumstances, the board shall

prepare the financial statements, at least consisting of a balance sheet, a profit and loss account and notes to these documents.

2. The prepared financial statements shall be signed by all the officers. They shall also be signed by the supervisory board members in office. If any of their signatures are missing, the reason for this shall be noted.
3. The prepared financial statements shall be submitted to the general meeting for approval. The articles of association may provide that the general meeting shall have the authority to amend all or certain items or to require the board to alter the financial statements in line with instructions to be given by the general meeting or a committee from such meeting.
4. The financial statements shall provide insight, according to generally accepted social standards, that allows a true and fair view to be formed of the assets and the results as well as the solvency and liquidity of the company, to the extent the nature of financial statements allows for this.
5. Article 15, paragraph 3 shall apply analogously to the prepared and adopted financial statements and the accompanying documents.
6. Each shareholder and each holder of bearer debt instruments shall be entitled to inspect the documents kept in accordance with paragraph 5 during two years from the time the financial statements were drawn up or, as the case may be, approved.

Article 217

1. The general meeting or another body designated for that purpose in the articles of association shall be authorised to appoint an external expert for the purpose of supervising the bookkeeping on a regular basis, as well as reporting to the general meeting on the financial statements prepared by the board of directors.
2. The expert shall be entitled to inspect all the books, records and other information carriers of the company, the examination of which shall be necessary for the correct fulfilment of his duties. Other than as required pursuant to the instructions given him, he shall not be permitted to disclose any information regarding the company’s business as appearing or as communicated to him.
3. The expert shall also make his report known to the board of directors, the supervisory board and the body that appointed him.

Article 218

1. Directly connected with the approval of the financial statements, the general meeting or another body designated in the articles of association shall decide on the distribution or reservation of the profit according to the financial statements and on the paying of any other distributions to be charged to the equity capital according to the financial statements.
2. The general meeting or another body designated in the articles of association may resolve to pay interim distributions charged against a current financial year or charged against a closed financial year for which the financial statements have not yet been approved.
3. To the extent not otherwise provided in the articles of association, each share shall grant entitlement to receive an equal amount at each

distribution and each sub-share shall grant entitlement to receive the corresponding fraction of such amount. The articles of association may provide that the shares held by the company itself shall be taken into account when calculating the payment of distributions. The articles of association may leave the paying of distributions, whether in whole or in part, to a body designated for that purpose.

4. The right to payment of a distribution shall lapse upon the expiry of a period of three years from the end of the day on which either that right was adequately publicised, or the party entitled to the distribution took cognisance thereof or was notified accordingly. The articles of association may extend this period or replace it with a longer prescriptive period.
5. Distributions to shareholders and other parties entitled to distributions may not be made if the company's equity capital is negative or would become negative due to the distribution. A resolution to make any such distribution shall have no legal effect whatsoever. Article 22, paragraph 2 shall not apply, unless the distribution has been paid to the person or party who is in lawful possession of a share that is traded on a stock exchange or a right attached thereto.
6. A distribution as referred to in this article shall be presumed to have been paid in contravention of the first sentence of paragraph 5 if the financial statements of the financial year against which the distribution is paid, with due observance of such distribution shows an equity capital that is negative. In the case of a distribution as referred to in paragraph 1, the presumption shall be irrefutable.
7. If the company has a nominal capital then, on applying paragraph 5, the amount of such capital shall be taken into consideration as a lower limit.

Article 219

Articles 216 and 217 shall not apply in respect of a company that has declared articles 120 to 122, inclusive, whether or not together with articles 123 and 124, applicable in its articles of association. In that case articles 125 and 126 shall also apply.

Section 5 The general meeting

Article 227

1. Unless otherwise provided in the articles of association, the general meeting shall have, within the limits provided by law and in the articles of association, all such powers as not granted to the board of directors or to others.
2. The shareholders may lay down further rules in a shareholders' agreement regarding their relationship with one another and the manner in which they shall exercise their powers as shareholders.
3. The articles of association may provide that the company may enter into a corporate agreement. An agreement between the company and its shareholders shall be deemed to constitute such an agreement provided that the following conditions are met:
   a. the agreement is laid down in writing;
   b. in addition to the company, all the shareholders are party to the agreement;

c. the board of directors has notified the existence of the corporate agreement in accordance with paragraph 9.

4. Provisions that may be included in the articles of association subject to application of article 1, paragraph 3 may be included in a corporate agreement with the same legal effect, insofar as not otherwise provided by the law, the articles of association or the corporate agreement.
5. Where a corporate agreement applies within a company then the acquisition of the share ownership in that company shall also be deemed to constitute accession as a party to the agreement. If a shareholder loses his share ownership then he shall also lose his position as a party to the corporate agreement.
6. The corporate agreement shall be entered into on behalf of the company by the board of directors with the prior approval of the supervisory board, if in office; it shall be signed by all the directors and jointly signed by all the supervisory board members; if any of their signatures is missing, the reason for this shall be noted at the end of the deed;
7. Article 233, paragraphs 3 to 5, inclusive, shall apply analogously, even where a resolution or resolutions is/are adopted without a meeting being held.
8. Paragraph 4 shall not apply in respect of provisions as referred to in articles 15, paragraph 5, 18, paragraph 1, 19, paragraphs 1 and 4, 202, 203, paragraphs 2 and 4, 208a, paragraph 1 under a, insofar as concerning obligations toward third parties, and 239, paragraph 1.
9. The board of directors shall notify the existence and the extinction of a corporate agreement at the office of the Trade Register.
10. Provisions in an agreement as referred to in this article shall be invalid insofar as they result in consequences that are contrary to or not consistent with the law or the articles of association.

Article 228

1. Each financial year, at least one general meeting shall be held or at least one resolution shall be adopted in accordance with article 235, paragraph 1 or 3, or article 241a, paragraph 1 or 3..
2. Unless otherwise provided in the articles of association, any director and any supervisory board member shall be authorised to convene a general meeting. The board and the supervisory board shall always be authorised to convene the general meeting.

Article 229

1. In this Title, the right to attend meetings shall mean the right to attend and address the general meeting, either in person or by another person holding a written proxy.
2. The right to attend meetings shall be vested in each shareholder and each person entitled to vote. The right to attend meetings may also be granted to other persons by or pursuant to the articles of association.
3. The articles of association may permit that with regard to shares without voting rights or with restricted voting rights, the right to attend meetings attached to such shares shall be excluded or restricted accordingly. The provision may also mean that the exclusion or restriction shall only apply to the rights ensuing from article 231,

paragraph 6, or article 235, paragraphs 1 and 3, or to both categories of rights.

Article 230

1. Every person with voting rights may request the board of directors or the supervisory board in writing to convene a general meeting in order to deliberate and resolve on matters thereby indicated and falling under such voting rights, provided they have a reasonable interest therein.
2. If the board of directors or the supervisory board fails to act on any such request within seven days from the date on which the request has reached the company or the body concerned, the applicant himself may act to convene a general meeting. The board of directors shall, for this purpose, allow the applicant to inspect the register referred to in article 209.
3. The notice convening the meeting issued by the person with voting rights shall not state any other matters to be considered than those originally listed for discussion.
4. The notice convening the meeting and the documents pertaining thereto shall also be sent to each director and each supervisory board member.

Article 231

1. Unless otherwise provided in the articles of association, the notice convening a meeting shall be sent in writing and addressed to the persons entitled to attend a meeting and the directors and supervisory board members. If one or more addresses are unknown, the notice convening the meeting shall also be given by means of an announcement in the National Gazette.
2. The term of notice for convening a meeting shall be at least five days, not counting the day of convocation nor that of the meeting. The date of the notice of meeting shall be the date on which the notice is sent or, if this is later, the date on which the notice convening the meeting is inserted in the gazette referred to in paragraph 1.
3. The notice convening a meeting shall state the location of the meeting and the business to be transacted. Items that are proposed to be discussed in good time by a person entitled to vote shall be placed on the agenda, unless this is incompatible with the interest of good order at the meeting. The proposed items for discussion at the meeting shall in any event be notified in the notice convening the meeting.
4. If a proposal is made to amend the articles of association, a copy of the proposal, including the verbatim text of the proposed amendment, shall also be sent or shall be deposited at the office of the company for inspection by the shareholders. The submission for inspection shall be stated in the announcement referred to in paragraph 1.
5. Unless otherwise provided in the articles of association, a meeting shall be held in Sint Maarten.

Article 232

1. Insofar as not otherwise provided in the articles of association, each share shall entitle the holder to cast one vote in respect of all the items. Voting rights cannot exist separately from a more extensive

right to a share. Voting rights may be exercised in person or by another person holding a written proxy.

2. The articles of association may provide that the right to attend meetings and the right to vote may be exercised only by the persons who, on a date laid down in the articles of association, the registration date, held such rights and as such were known to the board of directors of the company. The registration date may not be more than twenty days prior to the date of the meeting. If the shares are traded on a stock exchange, the term referred to in this paragraph may be a maximum of sixty days and the articles of association may leave the establishment of the registration date to a body of the company. The articles of association may therefore prescribe, as a further condition for the exercise of the rights referred to in this paragraph, that the person concerned shall be registered as a right-holder in a register designated by or pursuant to the articles of association on the registration date. If the articles of association include a registration date or a registration date has been laid down pursuant to the articles of association, this shall be stated with the notice convening a meeting.
3. Directors and supervisory board members as such shall have the right to give an advisory opinion in the general meeting and when adopting resolutions without holding a meeting. Insofar as this is not excluded or restricted by the articles of association, they shall also have the right to give an advisory opinion in respect of the adoption of resolutions by holders of a particular class of shares. In that case article 235, paragraph 1, second sentence shall apply analogously.

Article 233

1. Unless otherwise provided in the articles of association, all resolutions shall be passed by an absolute majority of the votes cast.
2. The articles of association may provide that, if there is a tie in voting, the decision shall be passed to another body or a third party.
3. A person appointed by the meeting shall keep minutes of the deliberations and the resolutions adopted. The minutes shall be signed by the chair of the meeting.
4. The signed minutes shall be kept by the board of directors for a period of ten years.
5. Every person entitled to attend a meeting shall be entitled to receive a copy of the minutes.
6. The previous paragraphs shall apply analogously in respect of resolutions by other bodies, on the understanding that the right to receive a copy of the minutes shall be vested in the members of the body concerned. In respect of the minutes of bodies other than the general meeting or the board of directors, the right of inspection referred to in article 15, paragraph 6 may furthermore be denied the board, in whole or in part, and the body concerned may appoint one of its members or a third party to preserve the minutes.

Article 234

1. Subject to restrictions pursuant to the articles of association and without prejudice to the provisions in article 5, the general meeting shall be authorised to amend the articles of association. A resolution adopted by unanimous vote to amend the articles of association with

the cooperation of all the persons entitled to vote shall be valid regardless of the provisions laid down in that respect in the articles of association.

2. A provision of the articles of incorporation that in the given situation would result in there being no persons with voting rights as referred to in paragraph 1 shall be regarded as not written for so long as such situation shall endure.
3. During the company's bankruptcy the articles of association may be amended only with the consent of the trustee in bankruptcy.
4. A resolution to amend the articles of association which will affect the legal status of a person who is involved by law or pursuant to the articles of association in the organisation of the company shall be nullified at the request of the person concerned, provided that such person has a substantial interest in maintaining such legal position. Article 21, paragraphs 4 and 5 shall apply analogously.

Article 235

1. A resolution of the general meeting can also be adopted by votes cast in writing without a meeting being held, provided that all the persons entitled to attend a meeting have consented to this manner of passing resolutions. The directors and supervisory board members shall have the opportunity to issue their advice prior to the adoption of any resolution.
2. Article 233, paragraphs 1 to 5, inclusive, shall apply analogously.
3. If all the shareholders are also directors of the company, the signing of the financial statements by all the directors and supervisory board members shall also constitute approval of the financial statements by the general meeting, provided that all the persons entitled to attend meetings have been given the opportunity to take cognisance of the prepared financial statements and have consented to this manner of giving approval. The articles of association may exclude the manner of approving the financial statements referred to in the first sentence.

Article 235a

1. If no votes may be cast for any of the shares in respect of a proposed resolution of the general meeting, the board of directors shall decide. The articles of association may propose an alternative solution. This solution may consist in the decision being passed to another body or a third party.
2. A provision in the articles of association as referred to in paragraph 1 shall not be applicable if it does not result in a resolution being adopted within a reasonable term.
3. The board of directors shall ensure to the extent possible that a situation such as referred to in paragraph 1 shall be prevented or rectified.

Section 6 The board of directors

Article 236

1. The appointment of directors not designated in the deed of incorporation shall be effected by the general meeting, unless otherwise provided in the articles of association.

2. Unless otherwise provided in the articles of association, the body or the person responsible for appointing the director shall be authorised at all times to suspend or dismiss such director. In respect of the directors designated in the deed of incorporation, the powers referred to in the first sentence shall be vested in the general meeting, unless otherwise provided in the articles of association.
3. Unless otherwise provided in the articles of association, the power to determine the remuneration of a director shall be vested in the general meeting.
4. A suspension within the meaning of this article shall be lifted if the person concerned has not been dismissed within two months from the date of suspension.

Article 237

Article 236 shall not apply in respect of the executive directors as such if article 18 has been made applicable in the articles of association.

Article 238

The person who, without forming part of the board of directors, for a certain period of time or under certain circumstances, whether or not pursuant to a provision applying to the company, determines or jointly determines the policy of the company as if he were a director, shall be deemed a director in respect of such actions as far as his obligations in respect of the company and of third parties are concerned, as also for the purposes of article 9.

Division 7 The shareholder-managed company

Article 239

1. The articles of association of a private limited liability company may provide that the company shall be a shareholder-managed company.
2. A resolution to amend the articles of association, resulting in the introduction of a provision as referred to in paragraph 1, may be adopted only with the express consent of all the shareholders and all those entitled to vote.
3. The name of a shareholder-managed company shall commence or end with the words 'aandeelhouder-bestuurde vennootschap' (shareholder-managed company), written either in full or abbreviated to ‘A.B.V’ or ‘ABV’, by way of derogation from article 202, paragraph 1, second sentence.
4. The provisions of the preceding Divisions shall apply, insofar as they are not deviated from in this Division.

Article 240

1. Unless otherwise provided in the following paragraphs of this article, all the shareholders shall be directors. Only shareholders may be directors.
2. The following shall not be directors:
   a. the holder of shares to which, aside from the rights or provisions arising from mandatory law and any right to attend meetings that may be vested in him, only distribution rights are attached;

b. any person who has become a shareholder by operation of law through the transmission of shares, unless the board of directors resolves, following the transmission, with the consent of the shareholder concerned that he shall qualify as a director; as long as the shareholder is not a director, he shall be considered as a shareholder within the meaning of the provisions under a above;
c. the company that holds its own shares and the direct or indirect subsidiary that holds shares in the company.

3. A transfer of shares that does not have the consent of all the director shall be invalid.
4. Unless otherwise provided in the articles of association, the shareholder referred to in paragraph 2, under b, first sentence, shall be subject to an obligation by operation of law to offer and transfer all his shares as set forth in article 257. The right to demand the transfer shall be vested only in the joint shareholders who are directors.
5. Shareholders who are not directors shall be disregarded for the purposes of article 277, paragraphs 3 and 5.

Article 241

1. Without prejudice to the rules for the adoption of resolutions currently in force, each meeting of shareholders shall also be a board meeting and each board meeting shall also be a meeting of shareholders.
2. Each director shall be authorised to convene a meeting. Each share shall entitle the holder to cast one vote in respect of all the matters discussed at a meeting. If according to the articles of association there are shares with a nominal value then the nominal value shall be the same for all those shares. The articles of association may grant the right to cast more than one vote to certain classes of share. If and insofar as provided by the articles of association, supervisory board members shall have the right to give an advisory opinion in respect of the deliberations and adoption of resolutions. Voting rights cannot exist separately from a more extensive right to a share.
3. The right to attend meetings shall be vested in each director. The right to attend meetings may also be granted to other persons, also including the shareholders referred to in article 240, paragraph 2, under a and b, by or pursuant to the articles of association. The right of consent referred to in article 241a, paragraphs 1 and 3, may then be excluded.
4. Article 228, paragraph 2, article 229, paragraph 2, and articles 230, 231, 232 and 235 shall not apply.
5. A reasonable term shall be observed when convening a meeting. Further procedural rules may be laid down by or pursuant to the articles of association. In case of non-compliance with these rules, article 231, paragraph 6 shall apply analogously.

Article 241a

1. A resolution that constitutes a resolution of a meeting as referred to in article 241, paragraph 1 can also be adopted by votes cast without a meeting being held, provided that all the persons entitled to attend a meeting have consented to the chosen manner of passing resolutions.
2. Article 233 shall apply analogously.

3. The signing of the financial statements by all the directors and supervisory board members shall also constitute approval within the meaning of article 216, paragraph 3, provided that all the persons entitled to attend meetings have been given the opportunity to take cognisance of the prepared financial statements and have consented to this manner of giving approval.

Article 242

1. Articles 18 and 236 shall not apply.
2. Unless otherwise provided in or arising from the articles of association, a shareholder who is a director may be suspended as a director by the general meeting. For as long as the suspension shall last, the shareholder shall have, in addition to the rights granted to him under mandatory law, no other rights than distribution rights.
3. Articles 251 and 252 shall apply analogously in respect of the shareholder who has been suspended as a director. Article 251, paragraph 2 shall not apply. The action referred to in article 252, paragraph 5 may only be instituted against the shareholders who have cooperated in the resolution to suspend.
4. The action for retirement shall cease to apply six months from the end of the date on which the person concerned took cognisance of the resolution to suspend or was notified thereof. This prescriptive period may be extended for up to six months by the person concerned through a notification delivered to the legal entity within such term.
5. Institution of the action for retirement shall not affect the possibility of instituting an action in accordance with article 21.

Title 7 Buyout, retirement and compulsory transfer

Division 1 Buyout

Article 250

1. A person who for his own account holds shares representing at least 95% of the equity capital of a public limited liability or private limited liability company, may institute an action against the other shareholders jointly for the transfer of their shares to the claimant. The same shall apply if two or more group companies jointly hold the required number of shares and jointly institute an action for transfer to any of them.
2. In the articles of association the percentage referred to in paragraph 1 may be lowered, provided it is not set at less than 90.
3. If one or more defendants are declared to be in default of appearance, the court shall investigate officially whether the requirements of paragraph 1 or 2 have been met.
4. The court shall dismiss the claim against all the defendants if, despite the compensation, a defendant would suffer serious material or tangible loss or damage through the transfer, or a claimant has waived his right against a defendant to institute the action. Insofar as not otherwise provided in the articles of association, the court shall also dismiss the claim against all the defendants if a defendant is the holder of a share to which the articles of association attach a special right concerning control in the company.

5. If the court finds that paragraphs 1 to 4, inclusive, do not impede the allowing of the claim, it may direct that one or three experts will advise on the value of the shares to be transferred. It may direct that the claimant shall provide security for the costs associated with the report of the expert(s). Article 121, paragraph 4 shall apply analogously. The court shall determine the price that the shares to be transferred shall have on a date to be set by it. So long and insofar as the price has not been paid, it shall be increased by interest, equal to the statutory interest, from that date up until the transfer; distributions on the shares made payable in this period shall be applied on the date on which payment is due as partial payment of the price.
6. The court allowing the claim shall order the acquirer to pay the price determined along with the interest to the owners or future owners of the shares, in return for the transfer of the unencumbered right to the shares. The court shall decide on the costs of the proceedings in such a manner as it shall deem appropriate. No order for costs shall be given against a defendant who has not put up a defence.
7. If the order to transfer has been determined in a final and conclusive judgment, the acquirer shall notify the date and place of transfer and payment and the price in writing to the holders of the shares to be acquired, whose address he knows. Unless he knows the addresses of all of them, he shall also publish this notice in the National Gazette and in a newspaper that is available in Sint Maarten.
8. The acquirer who has fulfilled his obligations under paragraph 7 may, if a holder of shares to be acquired fails to cooperate in the transfer on the notified date or within no more than six months thereafter, release himself from his obligations under paragraph 6 by paying into the consignment office the price as determined, along with the interest, for all shares not yet acquired, notifying any rights of pledge and usufruct known to him and the attachments known to him. Through this notification the attachment shall pass from the shares to the right of distribution. Through the payment into the consignment office, the right to the shares shall pass to him unencumbered, and the rights of pledge or usufruct shall pass to the right of distribution. No right may be subsequently derived from share certificates and dividend coupons on which distributions were declared payable following the transfer against the company. The acquirer shall announce the payment into the consignment office and the price per share at that time in the manner described in paragraph 7.
9. Distribution of funds paid into the consignment office shall be made by the consignee, after deduction of administrative charges. The amount of the administrative charges shall be determined by National Decree, containing general measures.

Division 2 Retirement

Article 251

1. The holder of shares whose rights or interests are prejudiced by any conduct of the company or one or more joint shareholders in such a manner that his continued share ownership may no longer reasonably be required of him may institute a claim against the company for his retirement, to the effect that the company shall take over his shares against payment in cash.

2. The claimant shall have no cause of action if it does not appear that he expressed his objections in writing to the board of directors of the company at least four weeks before commencing the action.
3. The board of directors of the company shall immediately notify the supervisory board members and the joint shareholders in writing of the objections expressed and the commencement of the action.
4. If the action is allowed, the court shall appoint one or more experts who shall report in writing on the price payable to the claimant, within a period of time to be determined by the court. Articles 173 to 174d, inclusive, of the Code of Civil Procedure shall apply, unless otherwise provided in this article and article 252. The court may direct that the claimant shall provide security for the costs associated with the report of the expert(s). Article 121, paragraph 4 shall apply analogously.
5. A provision in the articles of association or an agreed provision that would prevent a transfer and acquisition of the shares by the company shall to such extent be disregarded.
6. The court that allows the action may decide against appointing experts at the joint request of the parties.
7. The action for retirement may be withdrawn only with the consent of the opposite party. An action for the addition of a person as a third party, joinder or intervention shall not be allowed.
8. So long as no final and conclusive decision has been made on the action for retirement, the claimant may not alienate his shares or establish a pledge or usufruct on them without the written consent of the company or, failing such consent, of the court.
9. The bringing of an action for retirement shall not affect an action for compensation of additional loss and/or damage or another action that is connected with the alleged conduct.

Article 252

1. The experts appointed in accordance with article 251, paragraph 4 shall base their deliberations on the price payable to the claimant on the value of the company at the time the action for retirement was allowed. In their report, they shall state to what extent account was taken of the tax implications of the transfer for the claimant, the company and the joint shareholders and of the economic consequences of the transfer for the company. If the articles of association or an agreement between the parties contain a pricing arrangement which one of the parties considers to be relevant, the report shall state to what extent this was deviated from.
2. After the experts have presented their report, the court shall, after having summoned the parties and the experts, determine the amount to be paid to the claimant. Account shall be taken, if requested, of the factors referred to in paragraph 1, second and third sentences, insofar as they are deemed relevant and this will not have unreasonable implications in the given case.
3. In line with the decision referred to in paragraph 2, the court shall direct that the shares will be transferred in the manner provided in paragraph 4. It shall designate a civil-law notary with a view to the application of paragraph 4. It shall order the company to pay the amount determined by it, increased by the statutory interest as and from the moment the action for retirement was allowed as well as the costs determined by it, also including those of the experts and the civil-law notary, to the safekeeping of the civil-law notary designated

by it. The court may attach an incremental penalty payment to this order for the benefit of the claimant. Any benefits accruing on the shares since the time the action for retirement was allowed shall accrue to the company. Before deciding, the court shall hear the civil-law notary to be designated if it believes there are reasons for doing so.

4. Unless the parties unanimously and promptly inform the civil-law notary that they wish to opt for another solution, a record drawn up with due dispatch by the civil-law notary upon receipt of the amount due by the company shall constitute the deed of transfer, in which the decision of the court shall be confirmed. The civil-law notary shall include in this deed such additions and clarifications as it shall deem necessary in the interest of the conduct of judicial matters. Following the execution of the deed, the civil-law notary shall pay over the amount received by him, after deduction of the costs determined by the court, to the claimant. A copy of the deed shall be sent by the civil-law notary to the company and to the claimant.
5. The action for retirement may also be commenced against one or more of the joint shareholders who individually or together with the company or other joint shareholders have committed any conduct as referred to in 251, paragraph 1. The court that is competent pursuant to article 9 may also in this case hear a connected action as referred to in article 251, paragraph 9. The company shall at any rate also be brought into the action. For the purposes of paragraph 3, first sentence, the court shall determine to whom, and if necessary in what ratio, the shares will be transferred.
6. An action as referred to in paragraph 5 shall be dismissed if and insofar as allowing it would, in the given case, result in an unacceptable breach of a provision in the articles of association as referred to in article 111, paragraph 1, or article 211, paragraph 1, or a similar agreed provision or arrangement.
7. The provisions in article 251, paragraph 7 shall apply also during the period that article 252 is implemented. During this period the provisions in article 251, paragraph 8 shall also apply, except in case of transfer in accordance with article 252, paragraph 4.

Article 253

1. If in the general meeting, through acts or events that a shareholder reasonably was not able to prevent, a majority resulted such as to make it possible for a joint shareholder, whether individually or together with a group company of the joint shareholder or pursuant to an agreement with other parties entitled to vote, to appoint or dismiss more than half the directors, members of the general board within the meaning of article 18 or supervisory board members, even if all the parties entitled to vote cast a vote, such shareholder may commence an action for retirement against the company as described in articles 251 and 252. The action may also be brought against the joint shareholder, the group company or the other parties entitled to vote referred to in this article. The company shall at any rate also be brought into the action.
2. The right to commence the action shall cease six months from the end of the date on which the shareholder took cognisance of the creation of a majority as referred to in paragraph 1 or was notified thereof.

Article 254

1. The right of action for retirement referred to in articles 251 and 252 shall also be vested in:
   a. the shareholder who, as such, does not or no longer meets requirements laid down in the articles of association, referred to in articles 108a and 208a, paragraph 1 under b, and consequently is unable to exercise one or more of the rights attached to his share;
   b. the shareholder who has informed the company and his joint shareholders in writing that he wishes to alienate his shares on conditions thereby stated, and is unable to carry out such intention due to the operation of share transfer restrictions contained in the articles of association within the meaning of article 111 or 211 or a provision in the articles of association as referred to in articles 108a or 208a, if the transfer restrictions or provision render the transfer impossible or excessively problematic;
   c. the shareholder whose legal status in the company is seriously prejudiced as a result of an amendment of the articles of association.
2. In the cases referred to in paragraph 1, article 252, paragraph 5 shall not apply.
3. The right to commence the action shall cease six months from the end of the date on which the shareholder found himself in a situation referred to in paragraph 1 under a, the written notification referred to in paragraph 1 under b was received by the company or, with regard to the amendment of the articles of association referred to under c, the condition described in article 21, paragraph 4 was met.

Article 255

1. At any stage of an action as set forth in article 251, 252, 253 or 254, the court may, at the request of an interested party, effect an arrangement as referred to in article 276, paragraph 4, if the interest of the company or another person as referred to in article 7, paragraph 1 so requires.
2. Article 276, paragraph 3, first sentence, and article 276, paragraphs 5 and 7 shall apply analogously.

Article 256

An action for retirement as referred to in articles 251 to 254, inclusive, may not be instituted in respect of shares that are traded on a stock exchange.

Division 3 Compulsory transfer

Article 257

The articles of association may provide that in cases specified in the articles of association the shareholder shall be obliged to offer and transfer his shares or part of his shares to the company or to one or more joint shareholders on conditions that are stipulated in the articles of association or pursuant to the articles of association will be determined by independent experts, without prejudice to the provisions in articles 108a and 208a, paragraph 3.

Title 8 The right of inquiry

Article 270

1. The provisions of this Title apply to the legal entities referred to in article 1, paragraph 1.
2. In this Title, the Joint Court is understood to mean: the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba.

Article 271

1. In response to a petition in writing filed by the parties with the authority conferred on them pursuant to article 272, the Joint Court may appoint one or more investigators and instruct them to conduct an investigation into the policy and affairs of the legal entity, either in relation to its entire policy and all its affairs or in relation to a particular part thereof, or during a specified period.
2. The policy and affairs of the legal entity also include the policy and affairs of the public partnership of which the legal entity is a fully liable partner.
3. The Joint Court may, on request, order that the investigation also cover the policy and affairs of a closely associated legal entity, provided that such legal entity has been summoned as an interested party.
4. Any reference in this Title to a supervisory board member shall also be understood to include a member of the supervisory body.
5. An appeal in cassation may be filed against a decision in accordance with this article 271 immediately after it has been issued.

Article 272

1. The authority to file the petition referred to in article 271 shall be held by:
   a. where it concerns a foundation to which an enterprise within the meaning of the Trade Register Ordinance belonged at any time within a period of three years prior to the filing of the petition: every interested party;
   b. where it concerns an association to which an enterprise within the meaning of the Trade Register Ordinance belonged at any time within the period referred to under a, or a cooperative or mutual insurance association: as many members as shall make up at least one tenth of the membership;
   c. where it concerns a public limited liability company or a private limited liability company: one or more shareholders who individually or jointly represent at least one tenth of the equity capital of the company or who may cast at least one tenth of the votes with respect to all matters.
2. Also authorised to file a petition are:
   a. the Public Prosecutors Office, in the general interest, as well as at the request of an interested party addressed to the Public Prosecutors Office, provided that the request is based on urgent grounds;

b. the trustee in bankruptcy in case of bankruptcy of the legal entity or dissolution in accordance with article 24;
c. the liquidator in other cases of dissolution of the legal entity;
d. any person to whom this authority has been granted by the articles of association or in an agreement with the legal entity;
e. the legal entity itself.

3. In order to prepare for a petition that will be filed by the Public Prosecutors Office, the Public Prosecutors Office may charge one or more expert persons with obtaining information on the policy and affairs of the legal entity. The legal entity shall be obliged to provide the requested information and, if requested, also to allow its books, records and other information carriers to be inspected by the experts.
4. Article 23 shall not apply in respect of the numbers referred to in paragraph 1.

Article 273

1. With the exception of the cases in which the legal entity itself, the liquidator or the trustee in bankruptcy acts as the petitioner, the petitioners shall be inadmissible in their petition if it is not established that they notified their objections against the policy or the affairs in advance and in writing to the board of directors and, if in office, the supervisory body, and a period of time has since elapsed during which the legal entity has had reasonably sufficient opportunity to investigate such objections and to take measures in response to them.
2. A petition to be filed by the legal entity itself in accordance with any provision in this Title may only be filed pursuant to a resolution of the board of directors or, if in office, the supervisory body. A special representative may be designated in respect of the proceedings to be instituted.
3. The body concerned shall notify the other body referred to in paragraph 2 as soon as possible of the intention to file a petition as referred to in paragraph 2 and, if that intention is implemented, of the filing of such petition. The provisions in article 10, paragraphs 4 and 5, and the provisions in article 11 shall not apply.
4. Paragraph 1 shall not apply if the legal entity is insolvent at the moment the petition is filed.
5. Any interested party may file a defence. The filing may take place, by way of derogation from the provisions in article 429h, paragraph 1 of the Code of Civil Procedure, up to a time determined by the Joint Court prior to the hearing in court. If permitted by the Joint Court, the petition may also be filed later.

Article 274

1. The Joint Court shall handle the petition with the greatest speed. It shall allow the petition only if there are justified reasons to doubt the soundness or correctness of the policy or affairs.
2. If the Joint Court dismisses the petition, and decides that the petition was not filed on any reasonable ground, the Joint Court may award the legal entity, at its request, compensation payable by the petitioners for the inquiry in respect of direct costs arising as a result of the petition for the inquiry and any provisional relief measures imposed pursuant to article 276, insofar as such costs were borne by the legal entity, without prejudice to a possible claim for compensation that may be

lodged by the legal entity in the customary manner with the civil court, where there are grounds for doing so. The compensation referred to in this paragraph shall be estimated by the Joint Court according to the standards of reasonableness and fairness.

3. If the petition is allowed, the Joint Court shall appoint one or more investigators. The Joint Court shall then set the maximum amount that the investigation may cost, also including the remuneration payable to the investigators and the anticipated additional costs that should not reasonably have to be borne by them. The Joint Court may, pending the investigation, increase this amount at the request of the investigators. The Joint Court may rule that the legal entity or the petitioners for the inquiry shall provide security for payment of the amount.
4. If one or more investigators are appointed, the Joint Court may designate an examining judge, whether or not from among the members of the division dealing with the matter. No appeal is possible to the Joint Court against decisions of the examining judge.

Article 275

1. The Joint Court and the examining judge designated by the Joint Court may issue the investigators with instructions regarding the manner in which they should structure their investigation and their report of that investigation. Interested parties may at any time request the Joint Court or the designated examining judge to give the investigators certain instructions, or may encourage the Joint Court to do so.
2. The instructions referred to in paragraph 1 may require the investigators to provide the Joint Court or the examining judge with interim reports. If the interim reports are made in writing then articles 279 and 280 shall apply analogously, if and insofar as the Joint Court so decides. The instructions referred to in paragraph 1 may also require the investigators to make an attempt at mediation.
3. At the request of the petitioners for the inquiry, the legal entity, each of the investigators or officially, the Joint Court may at any time relieve the investigators or one or more of them of their duties, appoint one or more other investigators, and alter the duration of the investigation or the period of time to which it relates.

Article 276

1. At any stage of the proceedings, the Joint Court may impose a provisional relief measure specified by the petitioner as referred to in paragraph 4 at the request of:
   a. one or more petitioners for the inquiry, if that is necessary in the interest of those petitioners or the legal entity;
   b. the investigators, if that is necessary in the interest of the investigation or the legal entity;
   c. at the request of the legal entity, if that is necessary in its interest;
   d. at the request of the Public Prosecutors Office pursuant to a ground set forth in article 272, paragraph 2 under a.
2. If no investigation has yet been ordered, a provisional relief measure shall only be imposed if the Joint Court's preliminary view is that there are justified reasons to doubt the soundness or correctness of the policy or affairs. Before deciding, the Joint Court may, if so requested or officially, hear witnesses and experts.

3. The relief measure may be lifted, extended, amended or substituted at any stage of the proceedings at the request of an interested party or the investigators. It shall cease to apply at the time determined by the Joint Court and in any event at the time a ruling to dismiss the petition for an inquiry has become irrevocable. In the event the petition for an inquiry is allowed in full or in part, the relief measure shall cease to apply in any event on the expiry of two months from the commencement of the date on which the report was deposited as provided in article 279, unless a request for extension as referred to in article 283, under a, has previously been made. In that case the Joint Court shall decide on the requested extension with the greatest speed.
4. The relief measure may provide for:
    a. the suspension of the effect of a resolution of a body of the legal entity, or an order to wholly or partly revoke a resolution, to suspend the implementation of that resolution in full or in part, or to nullify all or part of the consequences of the resolution;
    b. the suspension of one or more directors or supervisory board members;
    c. the temporary appointment of one or more directors or supervisory board members, with or without awarding remuneration at the expense of the legal entity;
    d. the temporary deviation from provisions of the articles of association, a corporate agreement or a set of regulations indicated in the measure;
    e. the temporary removal of voting rights;
    f. the temporary transmission of shares for the purpose of safekeeping;
    g. an order to the legal entity or other person referred to in article 7, paragraph 1, to take or omit to take certain action.
5. A relief measure may not impair or infringe on rights acquired by any third party in good faith. Where there is a risk of infringement or impairment, the third party concerned shall be brought into the proceedings as an interested party or admitted at its request. The Joint Court may, after proper notice to appear and, where possible, hearing the third party, rule that a relief measure to be imposed shall be effective against such third party, provided that compensation or security shall be provided for the resulting loss and/or damage that will be sustained by the third party, as provisionally estimated by the Joint Court, within a term to be determined by the Joint Court, or may rule that in its provisional view a case such as referred to in the first sentence has not arisen. The two previous sentences shall apply analogously where the relief measure has already been imposed and there is a risk of such infringement or impairment, or they have already occurred, without prejudice to application of paragraph 3, first sentence.
6. The Joint Court shall, where necessary, regulate the consequences of the relief measure imposed.
7. The Joint Court may, if requested, attach the forfeiture of an incremental penalty payment to a failure to comply with an order as referred to in paragraph 4, under g. This shall, without prejudice to article 611c, paragraph 2 of the Code of Civil Procedure, be forfeited to the legal entity or the parties that requested the relief measure pursuant to paragraph 1, at the discretion of the Joint Court. Articles 611a to 611i, inclusive, of the Code of Civil Procedure shall otherwise apply.

Article 277

1. The directors, supervisory board members and employees of the legal entity, also including the former directors, supervisory board members and employees, as well as the persons referred to in article 7, paragraph 1, shall be obliged to provide all necessary assistance and cooperation in the investigation.
2. All the books, records and further information carriers that the investigators shall deem relevant shall be provided to them for the purpose of inspection or copies thereof must be furnished, and all the assets of the legal entity shall be shown to them on request.
3. In respect of the obligations set forth in paragraphs 1 and 2, the examining judge shall be authorised, at the request of the investigator or the legal entity, to issue the orders it shall deem appropriate.
4. The orders referred to in paragraph 3 may include the instruction to the public authorities to provide assistance to the extent necessary and the warrant to enter a private residence if the place where the books, records and other information carriers or the assets are located is a private residence, or is only accessible through a private residence. The private residence shall only be entered against the wishes of the occupier upon presentation of the warrant issued by the examining judge.
5. Article 276, paragraph 7 shall apply analogously, on the understanding that the incremental penalty payment may only be imposed at the request of the investigator and on a corresponding recommendation from the examining judge, and may only be forfeited for the benefit of the legal entity and not in respect of an order directed at the legal entity.
6. Other than as required pursuant to the instructions given them, the investigators shall be prohibited from disclosing any information revealed to them by their investigation.

Article 278

The Joint Court may hear witnesses and experts at the request of the investigators. Articles 220, 224 and 225 of the Code of Civil Procedure shall apply analogously. The investigators may be present during the hearing and may put questions to the persons being heard.

Article 279

1. The investigators shall record their findings in a report that shall be signed by them. The report shall be deposited at the registry of the Joint Court and a copy thereof shall be provided to the legal entity, the petitioners for the inquiry and the interested party referred to in article 272, paragraph 2 under a.
2. The report shall show that its contents have been presented in draft form to the members of the board of directors in office at that time and at the time of the investigation and, where it existed, of the supervisory body of the legal entity in office at that time and at the time of the investigation, which comments it gave rise to on their part and which adjustments this prompted. To the extent possible, reasons

shall be given as to why suggestions for adjustment were not adopted, where this is applicable.

3. Paragraph 2 shall apply analogously with respect to all the persons named in the report as persons who contributed to the unsound or incorrect affairs or the unsound or incorrect policy established in the report, on the understanding that only the sections specifically relating to them need be presented to them in draft form.
4. Other than as required pursuant to the instructions given them, the investigators shall be prohibited from disclosing any information revealed to them by their investigation. It shall be prohibited for anyone to disclose to third parties anything from the contents of the draft report or parts thereof that have been presented to him in fulfilment of the provisions in paragraph 2 or 3 of this article, without prejudice to the obligations on everyone under the law.
5. The Joint Court may rule that all or part of the report shall be available for inspection by persons to be designated by the Joint Court, or everyone.
6. The investigators shall not be liable for loss and/or damage resulting from their actions in connection with the performance of their duties as such or from the report of the results of the investigation, unless they have behaved in relation to such actions or with regard to the findings set out in the report with an apparent gross misjudgement of what is involved in the proper performance of their duties.

Article 280

1. The clerk to the Joint Court shall notify the petitioners for the inquiry and the legal entity that the report has been deposited at the earliest opportunity thereafter.
2. On the order of the Joint Court, the court clerk shall ensure the deposit of the report and the right of inspection referred to in article 279, paragraph 5 are announced in the National Gazette as well as in a newspaper published in Sint Maarten. The related costs shall be borne by the legal entity.

Article 281

1. Once the report has been deposited, the Joint Court shall, based on information provided by the investigators, determine the amount that shall be payable to the investigators as the costs of the investigation. This amount shall be borne by the legal entity.
2. If the report shows that the petition for an inquiry was not filed on any reasonable ground, article 274, paragraph 2 shall apply analogously in respect of this amount.
3. The provisions in paragraph 2 above shall not affect the possibility that these and other costs or further loss and/or damage may be recovered against a director, supervisory board member or any other third party, where there are grounds for doing so.

Article 282

1. If the Joint Court finds that the report shows there is evidence of mismanagement, the Joint Court may rule that this is the case on the petition of a person referred to in article 279, paragraph 1.

2. The petition must be filed within two months after the deposit of the report. The Joint Court shall handle the petition with the greatest speed.
3. If the Joint Court rules that there is evidence of mismanagement, it may impose one or more of the relief measures referred to in article 283, provided that this has been petitioned and the Joint Court deems it necessary based on the results of the investigation.
4. If the Joint Court believes there are grounds for doing so, the Joint Court may order that a further investigation be conducted in respect of certain matters or a certain period to be specified. The decision on the petition pursuant to paragraph 1 shall in that case be deferred. The previous articles of this Title shall apply analogously to the extent possible.
5. The Joint Court may defer its decision with regard to the relief measures requested for a period to be determined by the Joint Court if the legal entity undertakes to take certain measures to end the mismanagement that has been established or to or minimise or reverse the consequences thereof to the greatest extent possible.

Article 283

The relief measures referred to in article 282, paragraph 3 are:

a. the relief measures referred to in article 276, paragraph 4 or, insofar as they have already been imposed as provisional relief measures in accordance with article 276 and have not yet ceased to apply, an extension thereof;
b. the annulment of a resolution of a body of the legal entity;
c. the dismissal of one or more directors or supervisory board members;
d. the dissolution of the legal entity;
e. the demerger of the legal entity in accordance with a motion appended to the petition, which has been drawn up by or on behalf of the petitioner, within the meaning of article 340, paragraph 2. Articles 335 to 363, inclusive, shall otherwise apply analogously, on the understanding that the responsibility assigned to the court in articles 345, 346, 351 and 354 shall be performed by the Joint Court.

Article 284

1. A relief measure as referred to in article 283 under a may be lifted, extended, amended or substituted at any time at the request of an interested party. It shall cease to apply at the time determined by the Joint Court and in any event on the expiry of three years from the date on which it became effective, also including the extension period of a provisional relief measure.
2. The Joint Court shall, where necessary, regulate the consequences of the relief measures imposed. The provisions in paragraph 1 shall apply analogously in respect of this regulation. The provisions in article 276, paragraph 5 shall also apply analogously.
3. A relief measure or regulation imposed by the Joint Court as referred to in paragraph 1 or 2 cannot be reversed or revoked by the legal entity. Any resolution to that effect shall be null and void.

Article 285

The provisional enforcement of a decision as referred to in article 283 under d and e cannot be ordered.

Article 286

The authority to file an appeal in cassation against a decision under this Title shall also be vested in the legal entity, irrespective of whether it has appeared in these proceedings.

Article 287

The annulment of a decision whereby a person is charged with an investigation or is appointed as a director, supervisory board member or manager of shares shall have no consequences for the obligation to pay the compensation or remuneration awarded or to be awarded to such person by the Joint Court.

Title 9 Conversion, merger and demerger

Section 1 Conversion

Article 300

1. A legal entity may be converted into another legal form with due observance of the following provisions.
2. A conversion shall require a resolution to convert and to amend the articles of association, adopted with due observance of at a minimum the requirements for a resolution to amend the articles of association. It shall be effected by notarial deed of conversion that shall contain the new articles of association. Article 5 shall apply analogously.
3. The conversion of a foundation shall be possible only if the articles of association allow the amendment of all the provisions of the articles.
4. The conversion of or into a foundation and of a public or private limited liability company into an association shall furthermore require an authorisation of the court.
5. In the cases requiring the authorisation of the court, the board of directors of the legal entity to be converted shall announce the intention to convert and the place where and time when the request for authorisation shall be dealt with in the National Gazette and by notice inserted in a newspaper published in Sint Maarten.
6. Only the legal entity may request authorisation for conversion. This shall be accompanied by submission of proof that the obligations under paragraph 5 have been met and a notarial draft of the deed. The authorisation shall be refused if a resolution as required is invalid or if an action to nullify the same is pending. It shall moreover be refused if the conversion shall lead to the unjust benefit or prejudice of one or more persons as well as if the interests of the parties entitled to vote who have not consented or of others, at least one of whom shall have applied to the court, have been insufficiently considered. The court may attach conditions to the granting of the authorisation, including the condition that compensation shall be paid to one or more shareholders in accordance with article 302, paragraph 3, for instance.
7. If the authorisation of the court is required for the conversion, the civil-law notary shall declare at the end of the deed of conversion that the

authorisation has been granted on the draft of the deed and, insofar as applicable, that the conditions thereby made have been complied with.

8. At the conversion of a foundation, the deed of conversion shall reflect the assets of the foundation and their composition. Following the conversion, the articles of association shall indicate that the net assets the foundation had at conversion may not be reduced by distributions to shareholders or members and may not be reduced by distributions to third parties without the consent of the court.
9. On applying article 24, next to the words "formation", "act of formation" and "balance sheet on formation" shall always be read as well: conversion, act of conversion and balance sheet on conversion.
10. Conversion shall not terminate the existence of the legal entity.

Article 301

1. Upon conversion of a legal entity into a public limited liability or a private limited liability company, alongside article 300 the following paragraphs shall also apply.
2. By virtue of the conversion, the members or shareholders shall become shareholders by law, in proportion to the rights of each of them. Where a foundation is converted, the persons stated in the deed of conversion shall become shareholders pursuant to the issue as regulated in the deed. The deed of conversion shall be signed by such persons in person or by written proxy.
3. A balance sheet on conversion shall be attached to the deed of conversion. In case of conversion into a public limited liability or a private limited liability company, the equity capital as shown may not be negative. If the company into which the legal entity is converted has a nominal capital, the equity capital may not be lower than that nominal capital.
4. The balance sheet on formation shall relate to a moment that is not more than one month before the date of the deed. It shall be signed by all the directors and supervisory board members.
5. Following the conversion, the shareholders, usufructuaries and pledgees may not exercise the rights attached to a share so long as they have not been entered in the register referred to in article 109 or article 209. To the extent that bearer share certificates have been issued, the entry shall be made only upon surrender of such share certificates to the company, subject to the application of article 105, paragraph 4.

Article 302

1. When a public limited liability or private liability limited company is converted into an association, cooperative society or mutual insurance association, every shareholder shall become a member unless he has requested the compensation referred to in paragraph 2. This option shall be stated in the notice convening the meeting at which a resolution shall be adopted for conversion and for amendment of the articles of association, and in the announcements referred to in article 300, paragraph 5.
2. Within two weeks after adoption of the resolution for conversion and for amendment of the articles of association, each shareholder who has not agreed to the resolution may request the company in writing to compensate him for the loss of his shares. The shareholder who has

already applied to the court in accordance with article 300, paragraph 6, thereby requesting compensation, shall not have this right unless the judge in such proceedings has not decided on that request.

3. In the absence of agreement the compensation shall be determined by one or more independent experts to be appointed, at the request of either party, by the judge deciding on the authorisation referred to in article 300, paragraph 4. The costs of the experts shall be borne by the company.

Article 303

1. Instead of a legal entity within the meaning of this Book, on the application of article 300 a foreign legal entity also may act as a legal entity being converted, provided that the laws governing such foreign legal entity shall not oppose any such conversion and the modalities thereof. A declaration to this effect, made by a person expert in this area of law, shall be attached to the deed of conversion. Articles 301 and 302 shall apply analogously to the extent possible.
2. For the purposes of article 300, paragraph 2, and for the time of implementation, it shall be a requirement that the foreign rules in effect for any such conversion shall also be taken into account. An authorisation of the court shall be required only on conversion into a foundation.

Article 304

1. A public limited liability and a private limited liability company may be converted into a foreign legal entity, provided that, under the laws governing such foreign legal entity, the consequence of such conversion shall be that the existence of the company as a legal entity in the legal form chosen shall be continued.
2. A conversion shall require a resolution to that effect by the shareholders' meeting, adopted on a unanimous motion of the board of directors and with due observance of at a minimum the requirements for a resolution to amend the articles of association. Furthermore, there shall be a requirement of a notarial deed placing on record the resolution to convert and to which shall be attached:
   a. a document, issued by a person or authority that, according to the laws of the foreign legal entity, has the power to effect a deed of conversion into or formation of such a foreign legal entity, which document shall contain the regulations under the articles of association or similar rules that will govern the foreign legal entity following the conversion;
   b. a declaration to the effect that, as soon as all the formalities shall have been complied with, also the condition of paragraph 1 will have been observed, which declaration shall be given and signed by the person or authority referred to under a. above or another expert in the area of law of the foreign legal entity;
3. The notarial deed referred to in paragraph 2 may contain a condition precedent for the conversion to take effect.
4. Article 4, paragraph 1 shall apply analogously. Paragraph 1, the final sentence of paragraph 2 and paragraph 3 of article 5 shall apply analogously, on the understanding that in paragraph 1 the words “entered in the trade register” shall be read as “removed from the trade register”. If the resolution to convert contains a condition

precedent as referred to in paragraph 3 above, the provision in article 5, paragraph 1, second sentence need not be complied with earlier than as soon as possible following compliance with such condition. A condition precedent that has not been met before or through the removal from the Trade Register shall be deemed to have been fulfilled through such removal.

5. The civil-law notary shall have the proposed conversion announced in a newspaper published in Sint Maarten and, insofar as possible simultaneously, in the National Gazette not less than three months and not later than five weeks prior to the date of execution of the deed containing the resolution to convert. This may be deviated from in cases expressly conducive to the interests of the company. In case of such deviation, the aforementioned deed shall include a declaration by all the directors who were in office at the time of the resolution to convert and, save in the case of a listed company, by all the shareholders entitled to vote who did not vote against the resolution to convert, in which they declare themselves jointly and severally liable in respect of all the debts of the company existing at the time the deed was executed; except in the event of bad faith, this liability shall cease to apply three months after such time and in any event one year after the commencement of the continued existence of the company in the chosen legal form. Article 5, paragraph 3 shall apply analogously.
6. The conversion shall be final the moment the deregistration from the Trade Register referred to in paragraph 4 shall have taken place. If it should subsequently be established that the condition of paragraph 1 has not been complied with, then the conversion shall be deemed not to have taken place.

Article 305

1. Up to one month after the latter of the two announcements referred to in article 304 has appeared, any creditor or co-contracting party of the company undergoing conversion to a foreign legal entity may, by means of a petition addressed to the court of first instance in the district where the company has its registered office according to its articles of association, oppose the conversion that has been announced on the grounds that he will be prejudiced in his position as a creditor or co-contracting party. The petition shall state the security, guarantee, contract amendment, dissolution or compensation that is being sought.
2. If the court finds the opposition to be well-founded, it shall determine the security or guarantee to be provided or the compensation to be paid by the company or a third party, or the contract amendment or dissolution that will be applicable when the conversion is effected. It may attach an obligation, to be effective as and from the date of the conversion, for the company to provide compensation when a contract is amended or dissolved.
3. The deed of conversion referred to in article 304, paragraph 2 may not be executed until after the opposition has been withdrawn, the decision declaring the opposition unfounded is enforceable or, in case of a declaration that the opposition is well-founded, the guarantee or security determined has been provided.
4. If the deed of conversion has already been executed, the court, whether or not on a legal remedy instituted, may order that a

guarantee as defined by it be provided and may attach a penalty thereto.

Article 306

1. A foundation may be converted into a foreign legal entity with due observance of the following provisions.
2. Article 300, paragraphs 3 to 7, and paragraph 8, first sentence, shall apply analogously.
3. A conversion shall require a unanimous resolution to that effect by the board of directors, adopted with due observance of at a minimum the requirements for a resolution to amend the articles of association. Article 304 shall otherwise apply analogously, with the exception of paragraph 5.

Division 2 General provisions regarding merger

Article 309

Merger is the legal act undertaken by two or more legal entities whereby one such legal entity acquires the assets of the other legal entity under general title, or whereby a new legal entity, formed by them jointly upon this legal act, acquires their assets under general title.

Article 310

1. Legal entities may merge with legal entities having the same legal form.
2. If the acquiring legal entity is newly formed, it must have the legal form of the merging legal entities.
3. For the purposes of this article, public limited liability and private limited liability companies shall be regarded as legal entities with the same legal form.
4. An acquiring legal entity may, regardless of its legal form, merge with an association, cooperative society, mutual insurance association, public limited liability or private limited liability company of which it is the sole member or shareholder.
5. A dissolved legal entity may not merge if by reason of the liquidation a distribution has already been made.
6. A legal entity may not merge during bankruptcy or the period of suspension of payments.

Article 311

1. With the exception of the acquiring legal entity, the merging legal entities shall cease to exist through the merger taking effect.
2. The members or shareholders of the legal entities ceasing to exist shall, by virtue of the merger, become members or shareholders of the acquiring legal entity, except in the cases of article 310, paragraph 4, article 333 or article 334, or when pursuant to the share exchange ratio there shall not even be a right to one single share.

Article 312

1. The boards of directors of the legal entities to be merged shall draw up a motion to merge.
2. This motion shall state at a minimum:
   a. the legal form, name and registered office of the legal entities to be merged;
   b. the articles of association of the acquiring legal entity, as they read and as they shall read following the merger or, if the acquiring legal entity is to be newly established, the draft deed of incorporation;
   c. the rights or considerations that shall be granted under article 320 to the charge of the acquiring legal entity to those who otherwise than as a member or shareholder have special rights in relation to the legal entities ceasing to exist, such as rights to a profit distribution or to acquire shares, and the time of commencement thereof;
   d. the benefits, if any, to be granted in connection with the merger to a director or supervisory board member of a legal entity to be merged or to any other party involved in the merger;
   e. the intentions regarding the composition following the merger of the board of directors and, if there will be a supervisory board, of such board;
   f. for each of the legal entities ceasing to exist, the time as and from which financial data shall be accounted for in the financial statements or other financial accounts of the acquiring legal entity;
   g. the intended measures in connection with the passing or transfer of the membership or share ownership of the legal entities ceasing to exist;
   h. the intentions regarding the continuation or termination of activities;
   i. the party (parties), if any, who must approve the resolution to merge.
3. The motion to merge shall be signed by the directors of each legal entity to be merged; if the signature of one or more of them is missing, this shall be stated and the reason shall be given.
4. If a merging legal entity is a public limited liability company whose articles of association contain a provision as referred to in article 139, the motion to merge must be approved by the supervisory board of such company and it shall also be signed by the supervisory board members; if the signature of one or more of them is missing, this shall be stated and the reason shall be given.

Article 313

1. In written explanatory notes, the board of directors of each legal entity to be merged shall state the reasons for the merger, setting forth the anticipated consequences for the activities and an explanation from a legal, economic and social point of view.
2. If the last financial year of the legal entity, for which financial statements or other financial accounts have/has been determined, has elapsed more than six months prior to submission of the motion to merge, the board of directors shall prepare financial statements or an interim statement of assets and liabilities. These shall relate to the status of the assets not earlier than on the first day of the third month prior to the month in which they are submitted. The statement of assets and liabilities shall be prepared with due observance of the

layout and valuation methods applied in the financial statements or other financial accounts most recently determined, unless they are deviated from with good reason on the ground that the current value differs significantly from the book value.

3. In the cases of articles 310, paragraph 3 no explanatory notes shall be required for the legal entity ceasing to exist, unless other parties than the acquiring legal entity have a special right vis-a-vis the legal entity ceasing to exist, such as a right to profit distribution or to acquire shares.

Article 314

1. Every legal entity to be merged shall file with the office of the Trade Register:
   a. the motion to merge;
   b. the last three approved sets of financial statements or other financial accounts of the legal entities to be merged, along with the statement of experts, insofar as these documents are or must be available for inspection;
   c. the annual reports of the legal entities to be merged covering the last three closed years, insofar as these reports are or must be available for public inspection;
   d. interim statements of assets and liabilities or non-approved financial statements, to the extent required pursuant to article 313, paragraph 2, and insofar as the financial statements of the legal entity must be available for inspection.
2. At the same time the board of directors shall deposit the documents, including the last three approved financial statements and annual reports that need not be available for public inspection, along with the explanatory notes produced by the boards of directors in relation to the motion, at the office of the legal entity or, in the absence of an office, at the place of residence of a director. The documents shall remain available for inspection by the members or shareholders and those who may exercise a special right against the legal entity, such as a right to profit distribution, to acquire shares or to attend meetings, up to the time of the merger, and at the address of the acquiring legal entity or, as the case may be, of a director thereof for a further six months thereafter. During this period they may obtain a copy of the aforementioned documents free of charge.
3. The legal entities to be merged shall announce in the National Gazette and in a newspaper published in Sint Maarten that the documents have been deposited, specifying the public registers where they are filed and the address where they are available for inspection pursuant to paragraph 2. If the resolution to merge must be approved in accordance with article 317, paragraph 5, the place where and the time when the request for approval is to be dealt with shall be announced.
4. If the boards of directors of the legal entities to be merged amend the motion to merge, paragraphs 1 to 3 shall apply analogously.
5. Paragraph 2 shall not apply in respect of foundations.

Article 315

1. The board of directors of each legal entity to be merged shall be obliged to inform the general meeting and the other legal entities to be

merged about any significant changes in the circumstances which became evident following the motion to merge which, had they been known, would have influenced the statements in the motion to merge or in the explanatory notes.

2. For a foundation, this obligation shall apply in respect of those who must approve the merger according to the articles of association.

Article 316

1. Up to one month after all the merging legal entities have made the announcement referred to in article 314, paragraph 3, any creditor or co-contracting party of one of the merging companies as well as any party capable of exercising special rights within the meaning of article 320 may, by means of a petition addressed to the court of first instance in the district where a company ceasing to exist or an acquiring company has its registered office according to its articles of association, oppose the merger that has been announced on the grounds that he will be prejudiced in his position as a creditor, co-contracting party or party capable of exercising special rights. The petition shall state the security, guarantee, contract amendment, dissolution or compensation that is being sought.
2. If the court finds the opposition to be well-founded, it shall determine the security or guarantee to be provided or the compensation to be paid by the acquiring company or a third party, or the contract amendment or dissolution that will be applicable when the merger is effected. It may attach an obligation, to be effective as and from the date of the merger, for the acquiring company to provide compensation when a contract is amended or dissolved.
3. The deed of merger referred to in article 318 may not be executed until after the opposition has been withdrawn, the decision declaring the opposition unfounded is enforceable or, in case of a declaration that the opposition is well-founded, the guarantee or security determined has been provided.
4. If the deed of merger has already been executed, the court on a legal remedy instituted may order that a guarantee as defined by it be provided and may attach a penalty thereto.

Article 317

1. The resolution to merge shall be adopted by the general meeting; in a foundation, the resolution shall be adopted by the party authorised to amend the articles of association or, if no other party may do so, by the board. The resolution may not differ from the motion to merge.
2. A resolution to merge may only be adopted after one month has elapsed from the day on which all the merging legal entities have announced the deposit of the motion to merge.
3. A resolution to merge shall be adopted in the same manner and by the same majority as a resolution to amend the articles of association. If the articles of association require approval in this respect, the same shall also apply in respect of the resolution to merge. If the articles of association require varying majorities for the amendment of separate provisions, the resolution to merge shall require the greatest of such majorities, and if the articles of association exclude an amendment of the provisions, the votes of all the members or shareholders entitled to vote shall be required; this shall apply unless such provisions will

remain in full force following the merger. The minutes of the meetings at which the resolution to merge is adopted shall be drawn up by notarial deed.

4. Paragraph 3 shall not apply insofar as the articles of association provide for other arrangements for resolutions to merge.
5. A resolution for the merger of a foundation shall require the prior approval of the court, unless exclusively foundations that are a private fund foundation, or exclusively foundations that are not a private fund foundation, are involved in the merger, and the articles of association of these foundations provide for all the provisions thereof to be amended. The court shall refuse the request if there are well-founded reasons to assume that the merger is contrary to the interests of the foundation or that the interests of affiliates or third parties are disproportionately prejudiced.

Article 318

1. The merger shall be effected by notarial deed and shall be effective from the day following the day on which the deed of merger was executed. The deed may be executed only within six months from the announcement of the filing of the motion or, if this is not allowed as a result of an opposition that was lodged, within one month from the time referred to in article 316, paragraph 3.
2. The civil-law notary shall declare at the end of the deed that he is satisfied that the procedural requirements have been observed for all the resolutions as required in this and the next Division and the articles of association for the realisation of the merger, and that the provisions in that regard, as laid down in this and the next Division and in the articles of association, have otherwise been complied with.
3. Articles 4 and 5 shall apply analogously, on the understanding that the required documents shall be presented to the office of the Trade Register of the acquiring and of each merged legal entity. On applying article 24, next to the words “formation”, “act of formation” and “balance sheet on formation” shall always be read as well: merger, act of merging and merger balance sheet.
4. The acquiring legal entity shall notify the merger within one month to the registrars of other public registers in which the passing and transfer of rights or the merger may be entered. If, by virtue of the merger, any registered property shall transfer to the acquiring legal entity, the latter shall be bound within this term to present to the keeper of the public registers, referred to in Title 1, Division 2 of Book 3, the documents required for the entry of the merger.

Article 319

1. A pledge and usufruct on a right of membership or on shares of the legal entities ceasing to exist shall pass to what shall supersede it.
2. If the pledge or usufruct rests on a right of membership or on shares which shall not be superseded by anything, then the acquiring legal entity shall provide an equivalent replacement.

Article 320

1. Anyone who, other than as a member or shareholder, may exercise special rights against a legal entity ceasing to exist, such as a right to

a profit distribution or to acquire shares, shall acquire an equivalent right in the acquiring legal entity, or else receive compensation. Compensation may not be claimed by a party that has already requested compensation in accordance with article 316, unless the judge in such proceedings has not decided on that request.

2. In the absence of agreement the compensation shall be determined by one or more independent experts to be appointed, at the request of either party, by the court of first instance in the district where the acquiring legal entity has its registered office.
3. Article 319 shall apply analogously in respect of any pledge or usufruct that had been established on the special rights.

Article 321

1. The time as and from which the acquiring legal entity will account for the financial data of a legal entity ceasing to exist in its own financial statements or other financial accounts shall mark the termination of the last financial year of such legal entity ceasing to exist.
2. The obligations regarding the financial statements or other financial accounts of the legal entities ceasing to exist shall rest on the acquiring legal entity following the merger.
3. Valuation differences between the accounting of assets and liabilities in the last financial statements or other financial accounts of the legal entities ceasing to exist and in the first financial statements or other financial accounts in which the acquiring legal entity shows these assets and liabilities shall be explained.

Article 322

1. If, as a result of the merger, an agreement of a merging legal entity should not, according to the standards of reasonableness and fairness, continue to exist unchanged, the court shall amend or dissolve the agreement on the demand of any of the parties. The amendment or dissolution may be given retroactive effect.
2. The right to lodge the demand shall cease on the expiry of six months from the deed of merger having been deposited at the office of the registers referred to in article 318, paragraph 3. The demand may not be lodged by a party that has already requested amendment or dissolution of the agreement in accordance with article 316, unless the judge in such proceedings has not decided on that request.
3. If the amendment or dissolution of the agreement results in loss and/or damage for the other party, the legal entity shall be bound to compensate such loss and/or damage.

Article 323

1. The court may only nullify a merger:
   a. if the deed of merger signed by a civil-law notary is not an authentic document;
   b. due to non-compliance with article 310, paragraphs 4 and 5, article 316, paragraph 3, or article 318, paragraph 2;
   c. due to the nullity, the ineffectiveness or any ground for nullification of a resolution required for the merger of the general meeting or, in a foundation, of the board;
   d. due to non-compliance with article 317, paragraph 5.

2. Nullification shall take place on the demand of a member, shareholder, director or other interested party against the acquiring legal entity. A merger not nullified by the court shall be valid.
3. The right to lodge the demand for nullification shall cease on the remedy of the non-compliance or the expiry of six months from the deed of merger having been deposited at the office of the registers referred to in article 318, paragraph 3.
4. The merger shall not be nullified:
   a. if the legal entity has remedied the non-compliance within a period of time to be determined by the court;
   b. if the consequences of the merger that have already arisen are difficult to reverse.
5. If the party demanding the nullification of the merger has suffered loss and/or damage through a non-compliance that could have led to nullification, and the court does not nullify the merger, then the court can order the legal entity to compensate the loss and/or damage. The legal entity shall have recourse in this regard against the parties responsible for the non-compliance and, up to no more than the benefit obtained, against those having benefited from the non-compliance.
6. The clerk of the court in which the demand claim was last pending shall have the nullification entered in the registers where the merger must be entered pursuant to article 318, paragraph 3.
7. The legal entities shall be jointly and severally liable in respect of undertakings that have arisen to the charge of the legal entity into which they were merged, following the merger and before the nullification is entered in the registers.
8. The irrevocable ruling to nullify a merger shall be binding on all parties. Third-party objection or revocation shall not be allowed.

Article 323a

1. A foreign legal entity with a comparable legal form, on the application of articles 309 to 334, inclusive, may also act as a legal entity ceasing to exist, provided that the laws governing such foreign legal entity shall not oppose the merger and the manner in which it is effected. A declaration to this effect, made by a person expert in this area of law, shall be attached to the deed of merger.
2. Article 323 shall apply, on the understanding that opposition to a merger as concluded under the laws governing the foreign legal entity shall also constitute ground for nullification.
3. Articles 310 to 334, inclusive, shall apply exclusively in respect of the acquiring legal entity. With regard to the legal entity ceasing to exist, the rules of the foreign law to which it is subject that apply to such merger shall be observed to the extent possible.
4. In addition to article 318, paragraph 1, first sentence, the applicable provisions of foreign law shall also apply in respect of the merger taking effect. The declaration referred to in article 318, paragraph 2 need not relate to the applicable provisions of foreign law.

Article 323b

1. A foreign legal entity with a comparable legal form, on the application of articles 309 to 334, inclusive, may also act as an acquiring legal entity, provided that the laws governing such foreign legal entity shall

not oppose the merger and the manner in which it is effected. A declaration to this effect, made by a person expert in this area of law, shall be attached to the deed of merger.

2. Article 323 shall apply, on the understanding that opposition to a merger as concluded under the laws governing the foreign legal entity shall also constitute ground for nullification.
3. Articles 310 to 334, inclusive, shall apply exclusively in respect of the legal entity ceasing to exist. With regard to the acquiring legal entity, the rules of the foreign law to which it is subject that apply to such merger shall be observed to the extent possible. By way of derogation from the above and from article 318, paragraph 1, the provisions of foreign law applicable to the acquiring legal entity shall apply in the first place in respect of the merger taking effect.
4. The declaration referred to in article 318, paragraph 2 need not relate to the applicable provisions of foreign law.

Division 3 Special provisions for mergers of public limited liability and private limited liability companies

Article 324

This Division shall apply if a public limited liability or private limited liability company merges.

Article 325

1. If shares or depositary receipts for shares of a company to be merged are listed in the official list of a stock exchange, the exchange ratio may depend on the price of those shares or those depositary receipts on such stock exchange at one or more points in time to be provided in the motion to merge, before the day on which the merger shall take effect.
2. If pursuant to the exchange ratio of the shares there shall be a right to money or debt claims, the aggregate amount thereof may not exceed one tenth part of the equity capital represented by the allocated shares.
3. In the deed of merger the acquiring company may cancel shares in the acquiring company held by that company itself or another merging company up to the asset value represented by the shares that it allocates to its new shareholders.
4. Shares of the companies ceasing to exist which are held by or for the account of the merging companies shall be cancelled.

Article 326

1. In addition to the information referred to in article 312, the motion to merge shall contain:
   a. the exchange ratio of the shares and the amount of the payments, if any, pursuant to the exchange ratio;
   b. the point in time with effect from which and the degree to which the shareholders of the companies ceasing to exist shall share in the profit of the acquiring company;
   c. the number of shares, if any, to be cancelled through application of article 325, paragraph 3;
   d. a merger balance sheet of the acquiring company.

2. The merger balance sheet of the acquiring company shall show an equity capital that shall not be negative or, if the acquiring company has a nominal capital, shall not be lower than the nominal capital. It shall relate to the presumed point in time of the merger. Data for the merger balance sheet may be taken from the financial statements or statements of assets and liabilities referred to in article 313, paragraph 2. Any deviations shall be explained.

Article 327

In the explanatory notes to the motion to merge, the board of directors shall notify;

a. the method or methods according to which the exchange ratio of the shares has been determined;
b. whether this method or these methods is/are appropriate in the given case;
c. the valuation resulting from each method as applied;
d. if more than one method has been used, whether the relative weight of the methods assumed at the valuation can be deemed to accord with generally acceptable standards; and
e. which particular difficulties, if any, were encountered on the valuation and on the determination of the exchange ratio.

Article 328

1. An external expert appointed by the board of directors as referred to in article 121, paragraph 1 shall inspect the motion to merge and shall declare whether the proposed exchange ratio of the shares, also considering the attached documents, is reasonable in his view. He shall also prepare a report giving his opinion on the merger balance sheet of the acquiring company and the notifications referred to in article 327.
2. If one of the merging companies is a public limited liability company, then for this company only the same person as for another merging legal entity shall be designated as an expert if the general meeting has approved the resolution to that effect.
3. The experts shall be equally competent to carry out audits and/or inspections for all the merging companies.
4. Article 314 shall apply analogously in respect of the declaration of the expert, and article 314, paragraphs 2 and 3 in respect of his report.

Article 331

1. Unless otherwise provided in the articles of association, an acquiring company may resolve to merge by means of a board resolution.
2. This resolution may be adopted only if the company has stated the intention to this effect in the announcement that the motion to merge has been deposited.
3. The resolution may not be adopted if one or more shareholders, jointly representing at least one tenth of the equity capital, or such smaller amount as provided in the articles of association, has requested the board of directors, within one month from the announcement, to convene the general meeting in order to resolve upon the merger. Article 317 shall then apply.

Article 333

1. If the acquiring company merges with a company of which it holds all the shares, or with an association, cooperative society or mutual insurance association of which it is the sole member, articles 326 to 328, inclusive, shall not apply.
2. If a person, or another party for his account, holds all the shares of the companies to be merged and the acquiring company does not allocate shares in pursuance of the deed of merger, articles 326 to 328, inclusive, shall not apply.
3. If all the persons entitled to vote have voted in favour of all the resolutions required for the merger, articles 326 to 328, inclusive, shall not apply.
4. If an acquiring association, cooperative society, mutual insurance association or foundation merges with a public limited liability or private limited liability company of which it holds all the shares, the provisions of this Division shall not apply.

Article 334

1. The deed of merger may provide that the shareholders of the companies ceasing to exist shall become shareholders of a group company of the acquiring company. They shall not then become shareholders of the acquiring company.
2. Such a merger shall be possible only if the group company, individually or together with another group company, holds all the shares of the acquiring company. Article 317, paragraphs 1 to 4, and article 331 shall apply analogously in respect of the resolution of the group company.
3. The group company allocating the shares shall be deemed a merging legal entity alongside the acquiring company. It shall be subject to the obligations applicable to an acquiring company pursuant to articles 312 to 328, inclusive, with the exception of the obligations under articles 316, 317, 318, paragraph 4, 321, paragraph 2, and 323, paragraph 7; it shall be disregarded for the purposes of article 328, paragraph 3. Articles 312, paragraph 2 under b., 320, 325, paragraph 3, and 326, paragraph 1 under b. shall then not apply in respect of the acquiring company.

Division 4 General provisions regarding demergers

Article 335

1. A demerger is a clear demerger and separation.
2. A clear demerger, or split-up, is the legal act whereby the assets of a legal entity that ceases to exist upon the demerger are acquired under general title in accordance with the description attached to the deed of demerger by two or more other legal entities.
3. Separation is the legal act whereby the assets, or part of the assets, of a legal entity that shall not cease to exist upon the demerger are acquired under general title in accordance with the description attached to the deed of demerger by one or more other legal entities, at least one of which in accordance with the provisions in this Division or Division 5 assigns membership rights or shares to the members or to shareholders of the demerging legal entity, or at least one of which is formed upon the demerger by the demerging legal entity.

4. The demerging legal entity as well as each acquiring legal entity, with the exception of legal entities that are formed at the demerger, are a party to the demerger.

Article 336

1. The parties to a demerger shall have the same legal form.
2. If an acquiring legal entity is formed upon the demerger, it must have the legal form of the demerging legal entity.
3. For the purposes of this article, public limited liability and private limited liability companies shall be regarded as legal entities with the same legal form.
4. Upon the demerger of an association, cooperative society, mutual insurance association or foundation, public limited liability or private limited liability companies may also be formed, provided that the demerging legal entity acquires all the shares thereof upon the demerger.
5. A dissolved legal entity may not be a party to a demerger if by reason of the liquidation a distribution has already been made.
6. A legal entity may not be a party to a demerger during bankruptcy or the period of suspension of payments.
7. A demerging legal entity may be in liquidation or have been granted a suspension of payments, provided that all the acquiring legal entities are public limited liability or private limited liability companies formed upon the demerger and the demerging legal entity becomes the sole shareholder thereof upon the demerger. If the demerging legal entity is in liquidation, the trustee in bankruptcy may resolve to demerge and the obligations resting on the board of directors pursuant to this and the next Division shall rest on the trustee in bankruptcy; if the legal entity has been granted a suspension of payments, the resolution to demerge shall require the approval of the administrator. Article 338, paragraph 2, article 340, paragraph 2 under e., insofar as it concerns the value of the part of the assets that the demerging legal entity will retain, article 341, paragraph 2, article 343, paragraph 1, and article 361, paragraph 3 shall not apply in case of liquidation; article 338, paragraph 2 shall not apply in case of suspension of payments.

Article 337

1. If all the assets of the demerging legal entity transfer, it shall cease to exist by virtue of the demerger taking effect.
2. Paragraph 1 shall not apply if at least one acquiring legal entity is a public limited liability or private limited liability company formed upon the demerger and the demerging legal entity acquires all the shares thereof upon the demerger.

Article 338

1. The value of the part of the assets of the demerging legal entity acquired by each acquiring legal entity at the time of the demerger may not be negative.
2. The same shall apply in respect of the equity capital that a demerging legal entity continuing in existence will retain.

Article 339

1. The members or shareholders of the demerging legal entity shall, by virtue of the demerger, become members or shareholders of all the acquiring legal entities.
2. No shares in an acquiring company shall be acquired for shares in a demerging company that are held by or for the account of that acquiring company or by or for account of the demerging company.
3. Paragraph 1 furthermore shall not apply insofar as:
   a. all the shares in the acquiring companies are held directly or indirectly by or for the account of the demerging company and the demerging company does not cease to exist;
   b. article 360 or article 363 is applied in respect of acquiring companies;
   c. pursuant to the share exchange ratio there shall not even be a right to one single share.

Article 340

1. The boards of directors of the parties to the demerger shall draw up a motion to merge.
2. This motion shall state at a minimum:
   a. the legal form, name and registered office of the parties to the demerger and, insofar as the acquiring legal entities are formed upon the demerger, of these legal entities;
   b. the articles of association of the acquiring legal entities and of the demerging legal entity continuing to exist, as they read and as they will read following the demerger or, insofar as the acquiring legal entities are formed upon the demerger, the draft deed of incorporation;
   c. whether all the assets of the demerging legal entity, or any part thereof, will transfer;
   d. a description based on which it can be accurately determined which assets of the demerging legal entity will transfer to each of the acquiring legal entities and, if not all the assets of the demerging legal entity will transfer, which assets will be retained by it, as well as a pro-forma profit and loss account or statement of operating income and expenditure of the demerging legal entity continuing to exist;
   e. the value, determined according to the date to which the financial statements or interim statement of assets and liabilities referred to in article 341, paragraph 2 of the demerging legal entity relate, and calculated with due observance of the third sentence of that provision, of the part of the assets that each acquiring legal entity will acquire and of the part that the demerging legal entity continuing to exist will retain, as well as the value of the shares in the capital of the acquiring legal entities which the demerging legal entity that continues to exist will acquire upon the demerger;
   f. the rights or considerations, if any, that shall be granted under article 349 to the charge of the acquiring legal entities to those who otherwise than as a member or shareholder can exercise special rights against the demerging legal entities, such as rights to a profit distribution or to acquire shares, and with effect from which date the grant shall take place;

g. the benefits, if any, to be granted in connection with the demerger to a director or supervisory board member of a party to the demerger or to any other party involved in the demerger;
h. the intentions regarding the composition following the demerger of the boards of directors of the acquiring legal entities and of the demerging legal entity that continues to exist as well as, insofar as there will be supervisory boards, of such boards;
i. the time as and from which financial data concerning each part of the assets that will transfer will be accounted for in the financial statements or other financial accounts of the acquiring legal entities;
j. the proposed measures in connection with the acquisition by the members of shareholders of the demerging legal entity of the membership or share ownership of the acquiring legal entities;
k. the intentions regarding the continuation or termination of activities;
l. the party (parties), if any, who must approve the resolution to demerge.

3. The motion to demerge shall be signed by the directors of each party to the demerger; if the signature of one or more of them is missing, this shall be stated and the reasons shall be given.
4. If a party to the demerger is a public limited liability company whose articles of association contain a provision as referred to in article 139, the motion to demerge must be approved by the supervisory board of such company and it shall also be signed by the supervisory board members; if the signature of one or more of them is missing, this shall be stated and the reasons shall be given.

Article 341

1. In written explanatory notes, the board of directors of each party to the demerger shall state the reasons for the demerger, setting forth the anticipated consequences for the activities and an explanation from a legal, economic and social point of view.
2. If the last financial year of the legal entity, for which financial statements or other financial accounts have/has been determined, has elapsed more than six months prior to submission of the motion to demerge, the board of directors shall prepare financial statements or an interim statement of assets and liabilities. These shall relate to the status of the assets not earlier than on the first day of the third month prior to the month in which they are submitted. The statement of assets and liabilities shall be prepared with due observance of the layout and valuation methods applied in the financial statements or other financial accounts most recently determined, unless they are deviated from with good reason on the ground that the current value differs significantly from the book value.

Article 342

1. Every party to the demerger shall file with the office of the Trade Register:
   a. the motion to demerge;
   b. the last three approved sets of financial statements or other financial accounts of the parties to the demerger, along with the

statement of experts, insofar as these documents are or must be available for inspection;

c. the annual reports of the parties to the demerger covering the last three closed years, insofar as these reports are or must be available for inspection;

d. interim statements of assets and liabilities or non-approved financial statements, to the extent required pursuant to article 341, paragraph 2, and insofar as the financial statements of the legal entity must be available for inspection.

2. At the same time the board of directors shall deposit the documents, including the last three approved financial statements and annual reports that need not be available for public inspection, along with the explanatory notes produced by the boards of directors in relation to the motion, at the office of the legal entity or, in the absence of an office, at the place of residence of a director. The documents shall remain available for inspection by the members or shareholders and those who may exercise a special right against the legal entity, such as a right to profit distribution, to acquire shares or to attend meetings, up to the time of the demerger at the address of each acquiring legal entity and the demerged legal entity that will continue to exist or, as the case may be, of a director thereof for a further six months thereafter. During this period they may obtain a copy of the aforementioned documents free of charge.
3. The parties to the demerger shall announce in the National Gazette and in a newspaper published in Sint Maarten that the documents have been deposited, specifying the public registers where they are filed and the address where they are available for inspection pursuant to paragraph 2. If the resolution to demerge must be approved in accordance with article 346, paragraph 5, the time when the request for approval is to be dealt with shall be announced.
4. If the boards of directors of the parties to the demerger amend the motion to demerge, paragraphs 1 to 3 shall apply analogously.
5. Paragraph 2 shall not apply in respect of foundations.

Article 343

1. The board of directors of each party to the demerger shall be obliged to inform the general meeting and the other parties to the demerger about any significant changes in the circumstances which became evident following the motion to demerge which would have influenced the statements in the motion to demerge or in the explanatory notes.
2. For a foundation, this obligation shall apply in respect of those who must approve the demerger according to the articles of association.

Article 344

1. A legal relationship to which the demerging legal entity is a party may transfer only in its entirety, on pain of a declaration that an opposition as referred to in article 345 is well-founded.
2. If, however, a legal relationship is connected with various assets transferring to various acquiring legal entities, then it may be demerged in such a manner that it shall transfer to all the acquiring legal entities concerned, in proportion to the relation that the legal relationship has to the assets that each legal entity shall acquire.

3. If a legal relationship is also connected with assets that the demerging legal entity continuing to exist shall retain, paragraph 2 shall apply analogously in this respect.
4. Paragraphs 1 to 3 shall not affect the rights that the co-contracting party to a legal relationship may derive from article 351.

Article 345

1. Up to one month after all the parties to the demerger have announced the submission of the motion to demerge, any creditor or co-contracting party of such party as well as any party capable of exercising special rights within the meaning of article 349 may, by means of a petition addressed to the court of first instance in the district where such a party has its registered office according to its articles of association, oppose a demerger that has been announced on the grounds that in respect of his legal relationship the motion is in contravention of article 344 or that he will otherwise be prejudiced in his position as a creditor, co-contracting party or party capable of exercising special rights. The petition shall, as the occasion arises, state the security, guarantee, contract amendment, dissolution or compensation that is being sought.
2. Before the court shall decide, it may give the parties to the demerger an opportunity to introduce, within a period of time set by it, an amendment as defined by it to the motion to demerge and to publish the amended motion in accordance with article 342. If the court finds the opposition to be well-founded for another reason than brought forward, it shall determine the security or guarantee to be provided or the compensation to be paid by one or more of the parties involved in the demerger or a third party, or the contract amendment or dissolution that will be applicable when the demerger is effected. It may attach an obligation, to be effective as and from the date of the demerger, for one or more parties to provide compensation when a contract is amended or dissolved.
3. The deed of demerger referred to in article 347 may not be executed until after the opposition has been withdrawn, the decision declaring the opposition unfounded is enforceable or, in case that for any reason other than violation of article 344 a declaration is made that the opposition is well-founded, the guarantee or security determined has been provided.
4. If the deed of demerger has already been executed, the court on a legal remedy instituted may:
   a. order that a legal relationship that passed in contravention of article 344 be transferred in whole or in part to one or more acquiring legal entities to be designated by it or to the demerged legal entity continuing in existence, or direct that two or more of these legal entities shall be jointly and severally bound to comply with the undertakings issuing from the legal relationship;
   b. order that a guarantee as defined by it be provided.

   The court may attach a penalty to an order as referred to above.
5. If, as a consequence of a transfer referred to in paragraph 4 under a., the transferring or acquiring legal entity should suffer any loss, the other legal entity shall be bound to compensate such loss.

Article 346

1. The resolution to demerge shall be adopted by the general meeting; in a foundation, the resolution shall be adopted by the party authorised to amend the articles of association or, if no other party may do so, by the board. The resolution may not differ from the motion to demerge.
2. A resolution to demerge may only be adopted after one month has elapsed from the day on which all the parties to the demerger have announced the deposit of the motion to demerge.
3. A resolution to demerge shall be adopted in the same manner and by the same majority as a resolution to amend the articles of association. If the articles of association require approval in this respect, the same shall also apply in respect of the resolution to demerge. If the articles of association require varying majorities for the amendment of separate provisions, a resolution to demerge shall require the greatest of such majorities, and if the articles of association exclude an amendment of the provisions, the votes of all the members or shareholders entitled to vote shall be required; this shall apply unless such provisions will remain in full force following the demerger. The minutes of the meetings at which the resolution to demerge is adopted shall be drawn up by notarial deed.
4. Paragraph 3 shall not apply insofar as the articles of association provide for other arrangements for resolutions to demerge.
5. A resolution for the demerger of a foundation shall require the prior approval of the court, unless exclusively foundations that are a private fund foundation, or exclusively foundations that are not a private fund foundation, are involved in the demerger, and the articles of association of these foundations provide for all the provisions thereof to be amended. The court shall refuse the request if there are well-founded reasons to assume that the demerger is contrary to the interests of the foundation or that the interests of affiliates or third parties are disproportionately prejudiced.

Article 347

1. The demerger shall be effected by notarial deed and shall be effective from the day following the day on which the deed of demerger was executed. The deed may be executed only within six months from the announcement of the filing of the motion for demerger or, if this is not allowed as a result of an opposition that was lodged, within one month from the time referred to in article 345, paragraph 3.
2. The civil-law notary shall declare at the end of the deed that he is satisfied that the procedural requirements have been observed for all the resolutions as required in this and the next Division and the articles of association for the realisation of the demerger, and that the provisions in that regard, as laid down in this and the next Division and in the articles of association, have otherwise been complied with. The description referred to in article 340, paragraph 2 under d. shall be attached to the deed.
3. Articles 4 and 5 shall apply analogously, on the understanding that the required documents shall be presented to the office of the Trade Register of each of the parties to the demerger. On applying article 24, next to the words “formation”, “act of formation” and “balance sheet on formation” shall always be read as well: demerger, act of demerging and demerger balance sheet.
4. The acquiring legal entities, each insofar as relating to goods that passed to them upon the demerger, shall notify the demerger within

one month to the registrars of other public registers in which the passing and transfer of rights or the demerger may be entered. If, by virtue of the demerger, any registered property shall transfer to an acquiring company, the demerged legal entity or, if this ceased to exist upon the demerger, each of the acquiring legal entities in its place shall be bound within this term to present to the keeper of the public registers, referred to in Title 1, Division 2 of Book 3, the documents required for the entry of the demerger.

Article 348

1. The party entitled in connection with a pledge or usufruct to a right of membership or to shares in the capital of the demerging legal entity shall acquire a right identical to that which the member or the shareholder shall acquire pursuant to the deed of demerger. If the demerging legal entity continues to exist following the demerger, the existing pledge or usufruct shall additionally remain in effect.
2. If shares on which there is a pledge or usufruct are cancelled and nothing replaces them, then the acquiring legal entities shall provide the entitled party with an equivalent replacement.

Article 349

1. Anyone who, other than as a member or shareholder, may exercise special rights against the demerging legal entity, such as a right to a profit distribution or to acquire shares, shall either acquire such rights in acquiring legal entities that they, where applicable together with the right that he may exercise against the demerging legal entity continuing to exist, are equivalent to his right prior to the demerger, or else receive compensation. Compensation may not be claimed by a party that has already requested compensation in accordance with article 345, unless the judge in such proceedings has not decided on that request.
2. In the absence of agreement the compensation shall be determined by one or more independent experts to be appointed, at the request of either party, by the court of first instance in the district where the demerging legal entity has its registered office.
3. Article 348 shall apply analogously in respect of any pledge or usufruct that had been established on the special rights.

Article 350

1. If the demerged legal entity ceases to exist upon the demerger, its last financial year shall have ended at the time as and from which the financial data concerning its assets will be accounted for in the financial statements or other financial accounts of the acquiring legal entities.
2. If the demerged legal entity ceases to exist upon the demerger, the obligations regarding its financial statements or other financial accounts following the demerger shall rest on the acquiring legal entities jointly.
3. Valuation differences between the accounting of assets and liabilities in the last financial statements or other financial accounts of the demerged legal entity and in the first financial statements or other

financial accounts in which an acquiring legal entity shows these assets and liabilities shall be explained.

Article 351

1. If, as a consequence of the demerger, an agreement of a party to the demerger should not, according to the standards of reasonableness and fairness, continue to exist unchanged, the court shall amend or dissolve the agreement on the demand of any of the parties to the agreement. The amendment or dissolution may be given retroactive effect.
2. The right to lodge the demand shall cease on the expiry of six months from the deed of demerger having been deposited at the office of the registers referred to in article 347, paragraph 3. The demand may not be lodged by a party that has already requested amendment or dissolution of the agreement in accordance with article 345, unless the judge in such proceedings has not decided on that request.
3. If the amendment or dissolution of the agreement results in loss and/or damage for the other party, the legal entity concerned shall be bound to compensate such loss and/or damage.

Article 352

1. Paragraphs 2 to 4, inclusive, shall apply if, based on the description attached to the deed of demerger, it cannot be determined for an asset which legal entity is the party entitled to that asset following the demerger.
2. If all the assets of the demerged legal entity have transferred, then the acquiring legal entities shall be the jointly entitled parties. Each acquiring legal entity shall share in the asset in proportion to the value of the part of the assets of the demerged legal entity acquired by it.
3. If not all the assets have transferred, then the demerged legal entity shall be the entitled party.
4. Insofar as acquiring legal entities are liable in respect of debts by virtue of paragraph 2, they shall be jointly and severally bound.

Article 353

1. The acquiring legal entities and the demerged legal entity continuing in existence shall be liable for compliance with the undertakings of the demerged legal entity at the time of the demerger.
2. The acquiring legal entities and the demerged legal entity continuing in existence shall each be liable for indivisible undertakings in their entirety.
3. In the case of divisible undertakings, the acquiring legal entity to which the undertaking has transferred or, if the undertaking has not transferred to an acquiring legal entity, the demerged legal entity continuing in existence shall be liable for such undertakings in their entirety. The liability for divisible undertakings shall be limited for every other legal entity to the value of the assets that it acquired or retained upon the demerger.
4. Legal entities other than the legal entity to which the undertaking has transferred or, if the undertaking has not transferred to an acquiring legal entity, then the demerged legal entity continuing in existence

shall not be bound to comply until after the latter legal entity has failed to comply with the undertaking.

5. The provisions concerning joint and several liability shall apply analogously in respect of liability.

Article 354

1. The court may only nullify a demerger:
   a. if the deed of demerger signed by a civil-law notary is not an authentic document;
   b. due to non-compliance with article 336, paragraphs 5 or 6, article 345, paragraph 3, or article 347, paragraph 2, first sentence;
   c. due to the nullity, the ineffectiveness or any ground for nullification of a resolution required for the demerger of the general meeting or, in a foundation, of the board;
   d. due to non-compliance with article 346, paragraph 5.
2. Nullification shall take place by a decision of the court of the place where the demerged legal entity has its registered office according to its articles of association, on the demand of a member, shareholder, director or other interested party against all the acquiring legal entities and the demerged legal entity continuing in existence. A demerger not nullified by the court shall be valid.
3. The right to lodge the demand for nullification shall cease on the remedy of the non-compliance or the expiry of six months from the deed of demerger having been deposited at the office of the registers referred to in article 347, paragraph 3.
4. The demerger shall not be nullified:
   a. if the non-compliance has been remedied within a period of time to be determined by the court;
   b. if the consequences of the demerger that have already arisen are difficult to reverse.
5. If the party demanding the nullification of the demerger has suffered loss and/or damage through a non-compliance that could have led to nullification, and the court does not nullify the demerger, then the court can order the acquiring legal entities and the demerged legal entity continuing in existence to compensate the loss and/or damage. The legal entities shall have recourse in this regard against the parties responsible for the non-compliance and, up to no more than the benefit obtained, against those having benefited from the non-compliance.
6. The clerk of the court in which the demand claim was last pending shall have the nullification entered in the registers where the demerger must be entered pursuant to article 347, paragraph 3.
7. The demerged legal entity shall be jointly and severally liable, alongside the acquiring legal entity concerned, for the performance of undertakings that have arisen to the charge of the acquiring legal entities following the demerger and before the nullification is entered in the registers.
8. The irrevocable ruling to nullify a demerger shall be binding on all parties. Third-party objection or revocation shall not be allowed.

Division 5 Special provisions for demergers whereby a public limited liability or private limited liability company is demerged or formed.

Article 355

This Division shall apply if a public limited liability or private limited liability company is demerged or formed upon a demerger.

Article 356

1. If shares or depositary receipts for shares of a company to be demerged are listed in the official list of a stock exchange, the exchange ratio may depend on the price of those shares or those depositary receipts on such stock exchange at one or more points in time to be provided in the motion to demerge, before the day on which the demerger shall take effect.
2. If pursuant to the exchange ratio of the shares there shall be a right to money or debt claims, the aggregate amount thereof may not exceed one tenth part of the equity capital represented by the allocated shares.
3. In the deed of demerger an acquiring company may cancel its own shares which that company holds itself or acquires pursuant to the deed of demerger up to the asset value represented by the shares that it allocates to its new shareholders.
4. Shares in the demerging company that are held by or for the account of an acquiring legal entity or by or for account of the demerging company shall be cancelled if the demerging company ceases to exist upon the demerger.

Article 357

1. In addition to the information referred to in article 340, the motion to demerge shall contain:
   a. the exchange ratio of the shares and the amount of the payments, if any, pursuant to the exchange ratio;
   b. the point in time with effect from which and the degree to which the shareholders of the demerging company will share in the profit of the acquiring companies;
   c. the number of shares, if any, to be cancelled through application of article 356, paragraph 3;
   d. a demerger balance sheet of all the parties to the demerger that are public limited liability and private limited liability companies and that shall not cease to exist.
2. The demerger balance sheet referred to in paragraph 1 under d shall show an equity capital that shall not be negative or, if the company concerned has a nominal capital, shall not be lower than the nominal capital. It shall relate to the presumed point in time of the demerger. Data for the demerger balance sheet may be taken from the financial statements or statements of assets and liabilities referred to in article 341, paragraph 2. Any deviations shall be explained.

Article 358

In the explanatory notes to the motion to demerge, the board of directors shall notify:

a. the method or methods according to which the exchange ratio of the shares has been determined;
b. whether this method or these methods is/are appropriate in the given case;

c. the valuation resulting from each method as applied;
d. if more than one method has been used, whether the relative weight of the methods assumed at the valuation can be deemed to accord with generally acceptable standards; and
e. which particular difficulties, if any, were encountered on the valuation and on the determination of the exchange ratio.

Article 359

1. An external expert appointed by the board of directors as referred to in article 121, paragraph 1 shall inspect the motion to demerge and shall declare whether the proposed exchange ratio of the shares, also considering the attached documents, is reasonable in his view. He shall also prepare a report giving his opinion on the demerger balance sheets referred to in article 357, paragraph 1, under d, and the notifications referred to in article 358.
2. If two or more of the parties to the demerger are public limited liability companies then the same person shall be designated as an expert only if the general meetings have approved the resolution to that effect.
3. The experts shall be equally competent to carry out audits and/or inspections for all the parties to the demerger.
4. Article 342 shall apply analogously in respect of the declaration of the expert, and article 342, paragraphs 2 and 3 in respect of his report.

Article 360

In the event of a clear demerger, the deed of demerger may provide that various shareholders of the demerging legal entity shall become shareholders of various acquiring legal entities. In that case:
a. the motion to demerge shall state, in addition to the information referred to in articles 340 and 357, which shareholders shall become shareholders of which acquiring legal entities;
b. the board of directors shall state in the explanatory notes to the motion to demerge the criteria according to which this apportionment has been determined;
c. the expert referred to in article 359 shall also declare that the proposed apportionment, also considering the attached documents, is reasonable in his view; and
d. the resolution to demerge shall be adopted by the general meeting of the demerging company by a majority of three quarters of the votes cast in a meeting at which at least 95% of the assets represented by the shares shall be represented.

Article 361

1. Unless otherwise provided in the articles of association, an acquiring company may resolve to demerge by means of a board resolution. The same shall apply in respect of the demerging company, provided that all the acquiring legal entities are public limited liability or private limited liability companies formed upon the demerger and the demerging company becomes the sole shareholder thereof upon the demerger.

2. This resolution may be adopted only if the company has stated the intention to this effect in the announcement that the motion to demerge has been deposited.
3. The resolution may not be adopted if one or more shareholders, jointly representing at least one tenth of the equity capital, or such smaller amount as provided in the articles of association, has requested the board of directors, within one month from the announcement, to convene the general meeting in order to resolve upon the demerger. Article 346 shall then apply.

Article 362

1. If all the acquiring companies are formed upon the demerger and the demerging legal entity directly or indirectly becomes the sole shareholder thereof upon the demerger, article 340, paragraph 4, and articles 357 to 359, inclusive, shall not apply.
2. If all the resolutions required for the demerger are adopted by the votes cast in favour by all the persons entitled to vote, articles 357 to 359, inclusive, shall not apply.

Article 363

1. The deed of demerger may provide that the shareholders of the demerging company shall become shareholders of a group company of an acquiring company. They shall not then become shareholders of that acquiring company.
2. Such a demerger shall be possible only if the group company, individually or together with another group company, holds all the shares of the acquiring company. Article 346, paragraphs 1 to 4, and article 361 shall apply analogously in respect of the resolution of the group company.
3. The group company allocating the shares shall be deemed a party to the demerger alongside the acquiring company. It shall be subject to the obligations applicable to an acquiring company pursuant to articles 340 to 360, inclusive, with the exception of the obligations under articles 345, 346 and 350, paragraphs 2 and 4; it shall be disregarded for the purposes of article 359, paragraph 4; articles 352, 353 and 354, paragraph 7 shall not apply in respect of it. Articles 340, paragraph 2 under b., 356, paragraph 3, and 357, paragraph 1 under b. shall then not apply in respect of the acquiring company.

Article II

Article 823 of Book 7 of the Civil Code is to be amended as follows:

a. In paragraph 1, first sentence, the full stop is to be replaced by a comma, followed by the words: unless otherwise agreed.

b. Paragraph 5 will read:
5. Paragraph 1, second and third sentences as well as paragraphs 3 and 4 may not be deviated from.

Article III

Transitional law

Article 1

Bearer shares in a public limited liability company that have been issued in a legally valid manner before the entry into force of this national ordinance may also be transferred after that time in the manner applicable in respect of those shares.

Article 2

A holder of bearer shares in a public limited liability company may not exercise the rights attached to his share after the entry into force of this national ordinance so long as he is not entered in the register referred to in article 109 of Book 2 of the Civil Code.

Article 3

The entry shall be made only upon surrender of the bearer share certificates to the company, without prejudice to the provisions in article 108 of Book 2 of the Civil Code.

Article 4

Article 105, paragraph 4 of Book 2 of the Civil Code, as it read before the entry into force of this national ordinance, shall continue to apply after that time in respect of bearer shares that were issued in a legally valid manner before that time.

Article 5

Any reference after the entry into force of this national ordinance in Book 2 of the Civil Code to "shares" shall be understood to refer exclusively to registered shares.

Article 6

The provisions in article 132, paragraph 3, second sentence, and article 232, paragraph 3, second and third sentences of Book 2 of the Civil Code shall only apply in respect of companies that already existed upon the entry into force of this national ordinance after two years have elapsed since the time of such entry into force.

Article 7

In respect of a company whose articles of association on 1 April 2014 did not include a provision concerning the preferential right referred to in article 106, paragraph 1, or article 206, paragraph 1 of Book 2 of the Civil Code, as these articles read prior to the entry into force of the National Ordinance Revising Book 2, article 106, paragraph 1, or article 206, paragraph 1 of Book 2 of the Civil Code such as were in force before that date shall continue to apply until two years have elapsed since the entry into force of this national ordinance.

Article 8

In respect of a company whose articles of association on 1 April 2014 did not include a provision concerning the right of inspection referred to in article 109, paragraph 4, final sentence, or article 209, paragraph 4, final sentence of Book 2 of the Civil Code, as these articles read prior to the entry into force of the National Ordinance Revising Book 2, article 109, paragraph 2, or article 209, paragraph 2 of Book 2 of the Civil Code such as were in force before that date shall continue to apply until two years have elapsed since the entry into force of this National Ordinance.

Article IV

This National Ordinance shall be entitled: National Ordinance Revising Book 2 of the Civil Code.

Article V

In view of its urgent importance as referred to in article 127, third paragraph of the Constitution, this National Ordinance shall come into force with effect from the first day after the date of issue of the Official Publication in which it is published.

This National Ordinance shall be published, along with the Explanatory Memorandum, in the
Official Publication.

Issued in Philipsburg,
The Governor of Sint Maarten

The Minister of Justice
dated

National Ordinance, of the ……
establishing a new
Code of Criminal Procedure *(Wetboek van Strafvordering*)

DRAFT

IN THE NAME OF THE KING!

The Governor of Sint Maarten,

Having taken into consideration:

In connection with legal and technical developments, such as the right of a defendant to consult counsel prior to an examination (Salduz, jurisdiction of the European Court of Human Rights), the reform of the DNA legislation and the possibility of tele-hearings, its is desirable to establish a new Code of Criminal Procedure;

Pursuant to Article 39(1) of the Charter for the Kingdom of the Netherlands, the criminal procedure of the Netherlands, Aruba, Curacao and Sint Maarten is regulated in a consistent manner as far as possible;

Having heard the Council of Advice, and in consultation with Parliament, has adopted the following national ordinance:

BOOK ONE
Criminal procedure in general

TITLE I
General provisions

Article 1
For the purposes of the application of this national ordinance and the regulations and implementing orders based on it, the terms below are defined as follows:

provider of a communication service: the natural person or legal entity that, in the practice of a profession or operation of a business, offers the users of its service the possibility of communicating with the aid of an automated device, or that processes or saves data for such a service or the users of that service;
protected witness: a witness regarding whom a court has issued an order pursuant to Article 261(l) that on the occasion of the examination, the identity of the witness should not be disclosed;

threatened witness: a witness regarding whom a court has issued an order pursuant to Article 261 that on the occasion of the examination, the identity of the witness should not be disclosed;
judgment: the decision of a court, not handed down at the hearing;
commanding officer: the commanding officer of a warship or a military aircraft of the Kingdom;
search: every investigation of a location for the presence of objects subject to seizure or the arrest of persons that goes beyond a general sweep of the property;
final decision: the decision declaring non-competence, inadmissibility or nullity of the summons or suspension of prosecution as well as the decision made following the completion of the entire investigation of the hearing of the case;
automated device: an installation intended to save, process and transfer data electronically;
user of a communication service: the natural person or legal entity that has contracted an agreement with a provider of a communication service in relation to the use of that service or that actually makes use of such a service;
data: every presentation of facts, terms or instructions in an agreed manner, suitable for transfer, interpretation or processing by persons or automated devices;
captain of an aircraft: every captain of a civilian aircraft of the Country or the person who replaces that captain;
signature, or signed: this may include a signature placed digitally or electronically, to be regulated by national decree containing general measures;
Court of Justice or Court: the Joint Court of Justice of Aruba, Curacao, Sint Maarten and of Bonaire, Sint Eustatius and Saba;
assistant public prosecutor or assistant officer: the investigating officer referred to in Article 191;
seizure: confiscation or holding of objects for the criminal prosecution;
installation at sea: every installation outside the Country set up on the bed of the territorial seas or the part of the Caribbean Sea or the Atlantic Ocean bordering on the part of the continental shelf belonging to the Country;
juvenile probation service: institution responsible for the probation tasks for juveniles, operating under any name whatsoever;
custodial institution: a custodial institution such as a detention centre, prison, juvenile detention centre, a psychiatric detention centre, an institution intended for observation or for criminal detention of addicts of any description whatsoever;
Country: Aruba, Curacao or Sint Maarten or the joint territory of the public bodies of Bonaire, Saba and Sint Eustatius;
national decree: in the territories of the public bodies of Bonaire, Sint Eustatius and Saba: Royal Decree;
national decree containing general measures: in the territories of the public bodies of Bonaire, Sint Eustatius and Saba, referred to as a 'general administrative order';
national ordinance: -in the territories of the public bodies of Bonaire, Sint Eustatius and Saba, referred to as an 'Act';
Minister: the Minister responsible for justice;
Public Prosecutors Office: both the entire organisation and its individual public prosecutors, Advocates General or Attorneys-General;

investigating officers: all persons who are responsible or the investigation of criminal offences in accordance with Articles 184 and 185, as well as the members of the Public Prosecutors Office, if they make use of their investigative powers;
criminal investigation: the investigation conducted in connection with criminal offences under the authority of the public prosecutor, with the aim of taking criminal procedural decisions;
passenger: a person, not being the captain, who is on board a vessel of the Country, even if he leaves the vessel temporarily during the voyage, as well as a person, not being the captain, who is on board an installation at sea;
parents: the natural persons who exercise parental authority over a minor;
person: both a natural person and a legal entity;
counsel: the lawyer of a defendant;
court decision: both a court decision and a court judgment;
crew: every person serving on board a vessel of the Country as a ship's officer or crew member;
vessel of the Country: as referred to in Article 1:209 of the Criminal Code (*Wetboek van Strafrecht*);
shipmaster: the ship's master of a vessel of the Country or his replacement, as well as the person in charge of an installation at sea designated by national decree;
written: in the cases and in the manner laid down in more detail by national decree containing general measures, this includes electronic mail or other digital possibilities;
return of seized objects: the performance of the required formalities in connection with the return of seized objects;
judgment: the decision handed down at the court hearing;
guardian: a person other than a parent who exercises authority over a minor;
preparatory investigation: the investigation preceding the handling of a case during a court hearing;
pre-trial detention: the deprivation of liberty pursuant to a custodial detention order or imprisonment and orders to extend the term of these;
objects: all gods and all proprietary rights.

Article 2

1. Where reference is made to a criminal offence in general or to a particular criminal offence, this includes inchoate offences such as assisting a crime, attempts to commit crimes and preparations to commit crimes.
2. The term 'under oath' also refers to making the pledge.
3. 'Apprehending' also refers to halting vehicles and vessels.

Article 3

1. A term defined in this Code, not being a term of deprivation of liberty, ending on a Saturday, Sunday or a public holiday generally recognised in the Country will be extended until the next day not being a Saturday, Sunday or generally recognised public holiday.
2. 'A month' refers to a period of 30 days and 'a day' to a period of 24 hours.

Article 4

1. The case documents include all documents that could reasonably be of importance for the decisions to be taken by the court at the hearing, subject to the provisions of Article 4a.
2. Regulations concerning the way in which the case documents are compiled and structured may be imposed by a national decree containing general measures.
3. During the preparatory investigation, the public prosecutor is responsible for compiling the case documents.

Article 4a

1. If the public prosecutor considers this necessary in view of the interests referred to in Article 227d(1), he is authorised to omit the addition of certain documents or parts of these to the case documents. The public prosecutor requires prior written authorisation for that purpose, granted in response to his claim for this by the examining judge. The claim and the decision are added to the case documents.
2. The public prosecutor will draw up a record of the application of paragraph 1 and, in as far as the amounts referred to in Article 227d(1) permit, will state the reasons for this. This record will be added to the case documents.
3. The public prosecutor shall keep the documents referred to in paragraph 1 at least until the legal proceedings have been closed.

Article 4b

1. The authorisation to view case documents also refers to the authorisation to take notes on these.
2. The authorisation to view case documents also refers to the authorisation to view documents recorded and stored on data carriers.

Article 5

1. Hearing or questioning persons for criminal proceedings is aimed at revealing the truth. When such persons are given an opportunity to make comments in connection with a decision pursuant to this Code, they will be heard.
2. If a hearing of a defendant is required, this will always be preceded by a correct summons. A hearing may only be omitted if the defendant has explicitly waived this or if, despite a correct summons, the defendant fails to appear.

Article 5a

1. When authorisation is granted to hear, interrogate or question persons, this also refers to hearings, interrogations or questioning by means of telecommunications in which a direct audio or audiovisual connection is made between the persons concerned.
2. The bench chairman, judge, examining judge or official responsible for leading the hearing, interrogation or questioning will decide whether such communications will be used. Before a decision is made, the person to be heard, interrogated or questioned or his counsel or lawyer and, where applicable, the Public Prosecutors Office, will be given an opportunity to make their views on its application known.
3. No separate legal remedy is available against the decision to make use of this communication.
4. Further rules concerning the further development of this authorisation and the technical requirements for these communications may be imposed by a national decree, containing general measures.

Article 6
Being caught in the act occurs when the criminal offence is detected while it is being committed or immediately after it has been committed.

Article 7
In responding to the question of whether or not proceedings have been closed, the legal consequences associated with new objections becoming known, as referred to in Article 282, are disregarded.

Article 8
The provisions of this Title do not apply if a different meaning is shown by any provision of this Code.

TITLE II
Legality principle

Article 9
Criminal prosecution takes place only in the cases and in the manner laid down by national ordinance.

TITLE III
The Public Prosecutors Office and the competence of the courts

Article 10
In the first instance, the Public Prosecutors Office prosecutes the criminal offences in the Country in which it operates. In the second instance, the case is brought before the Court of Justice.

Article 11
1. If several persons, together or otherwise, have committed different crimes which are related in such a way that their handling before the same court must be regarded as desirable, these offences may be adjudicated together before a court of one of the Countries.
2. At every stage of the proceedings, the court, once the case is pending, may refer the case to a court of another country, either officially or on the claim of the Public Prosecutors Office or at the request of the defendant.

Article 12
For the purpose of determining the jurisdiction of the court, criminal offences committed outside the territorial jurisdiction of the Country on board a vessel or aircraft of the Country are deemed to have been committed within the territorial jurisdiction of the Country.

Article 13
(no text)

Article 14
The Attorney-General supervises correct prosecution of criminal offences and can issue the necessary orders to the public prosecutor, the district attorney, to that end.

TITLE IV
Court prosecution order or court order for further prosecution of criminal offences

Article 15

1. If a criminal offence is not prosecuted or the prosecution is not continued, the directly interested party in that regard may submit a written complaint to the Court of Justice.
2. 'The directly interested party' also refers to a legal entity that, pursuant to its objectives and according to its actual activities, represents an interest that is directly affected by the decision not to prosecute.
3. If activities in the field of the investigation and prosecution do not take place, or have not taken place within a reasonable term, for the purposes of the application of this Title, that fact will be equated with a decision not to prosecute.

Article 16

1. The Clerk of the Court will sent the complainant written notification of the receipt of the complaint as soon as possible.
2. Following receipt of the written complaint, the Court will instruct the Attorney-General to report on the decision not to prosecute or not to continue prosecution and to submit the relevant documents.

Article 17

If the complainant is apparently inadmissible or if the complaint is apparently unfounded, the Court may declare the complainant to be inadmissible or the complaint to be unfounded without further investigation.

Article 18

1. The Court does not make a decision before having heard the complainant, or at least before having called up the complainant correctly for that purpose, except in the case of Article 17.
2. Calling up the complainant can also be omitted if the complainant has already submitted a complaint regarding the same facts, unless the complainant has submitted new facts that, had the Court been aware of these, could have led to a different decision on that earlier complaint.
3. If the complaint is made by more than two persons, the Court may content itself with calling up the two persons whose names and addresses are shown first in the complaint document.

Article 19

1. The Court may call up the person whose prosecution is requested in order to give him an opportunity to comment on the request made in the complaint document and the grounds on which that request is based. The summons will be accompanied by a copy of the complaint document or contain a reference to the offence to which the complaint relates.
2. An order, as referred to in Article 25(1), will not be issued until the person whose prosecution is required by the Court has been heard or at least has been correctly summonsed for that purpose.

Article 20

1. The plaintiff and the person whose prosecution is requested may arrange for the support of a lawyer in the Council Chamber. They may arrange to be represented by a lawyer if the latter declares that he is specifically authorised to do so, or by a representative authorised in writing by means of a special power or attorney. They shall be notified of this authorisation in the summons, as well as of the possibility of requesting the assignment of a lawyer.
2. Except in the case of Article 17, the bench chairman of the Court will permit the complainant and the person whose prosecution is claimed, as well as their lawyers or authorised representatives, to view the documents relating to the case on request. Viewing will take place in the manner determined by the bench chairman.
3. Officially or on the claim of the Attorney- General, the head of the bench may, in the interests of the protection of personal privacy or the investigation or the prosecution of crimes or on serious grounds based on the general interest, exclude access to certain documents or decide that no copies will be issued of certain documents or parts of these.
4. If applicable, the plaintiff or the person whose prosecution is claimed will be notified in writing that he will not be provided with copies of certain documents or parts of these.

Article 21
The person whose prosecution is claimed is not obliged to answer the questions put to him in the Council Chamber. He will be notified of this before being heard. The notification will be included in the record.

Article 22
If the complainant or the person whose prosecution is claimed is heard in the Council Chamber, the Court will invite the Attorney-General to attend.

Article 23
The hearing of the complainant and the person whose prosecution is claimed may also be assigned to one of the members of the Court.

Article 24
Articles 38 to 42 concerning the proceedings in the Council Chamber apply to this Title.

Article 25
1. If the complainant is admissible and the Court finds that prosecution or further prosecution should have taken place, the Court will order prosecution of the offence to which the complaint relates, or the offence as described by the Court in its order, to be commenced or continued.
2. In all other cases, the Court will reject the complaint.
3. The Court may also reject the complaint on grounds based on the general interest.
4. Before taking a decision, the Court may, if it finds further investigation to be desirable, hand the documents to the public prosecutor, stating the subject and scale of the investigation and if necessary, the manner in which this must be conducted.

Article 26
1. The Court will issue a decision, stating its reasons, at the earliest opportunity.

2. The Clerk of the Court will send a copy of every decision without delay to the Attorney-General, the complainant and to the person whose prosecution is claimed if Articles 19(1) and 25(1) have been applied.

Article 27
The members of the Court who ruled on the complaint will not participate in the adjudication, either in the first instance or on appeal.

Article 28
1. With the application of Article 1:149 or 1:161 of the Criminal Code, the complaint must be filed within three months of the date on which the party with a direct interest becomes aware of that application.
2. The complaint may also be filed after this term if the defendant does not comply with the conditions set.

Article 28a
1. A complaint is not permitted with regard to criminal offences for which prosecution of the defendant has been ruled out or if the defendant has been served with a decision stating that the case has been closed.
2. If the complaint concerns a criminal offence for which the defendant has been served a non-prosecution notice, the complaint must be filed within three months of a circumstance arising that shows that the party with a direct interest is aware of the notification.
3. In addition, no complaint is possible in the event of a final judgment, as referred to in Article 475 or in the event of a circumstance as referred to in Article 476.

Article 29
If the Court officially finds that the prosecution of criminal offences should be instituted or continued, the provisions of this Title apply likewise as far as possible.

TITLE V
Suspension of prosecution

Article 30
1. If the assessment of the charge depends on the judgment of a civil point of dispute, whatever the stage of prosecution that has been reached, the court may suspend the prosecution for a fixed term, pending the judgment of the civil court on the point of dispute.
2. The suspension may be renewed for a set term on each occasion, and may be withdrawn at any time.

Article 31
1. In cases concerning minor defendants, prosecution may be suspended if any of the following are pending at the same time as the prosecution:
   a. a petition or claim for discharge from or withdrawal of parental authority in relation to one or both of the parents;
   b. a petition for a discharge from guardianship in relation to the guardian;
   c. a petition or claim for a supervision order against the defendant.

   The suspension shall continue until the decision on this becomes final.
2. In such a case, the suspension is deemed to have taken place due to the existence of a point of dispute under civil law.

Article 32
After the issue of the summons to appear at the hearing, the defendant may only request a suspension on the grounds of the existence of a point of dispute under civil law, either in a note of objections that may be filed against that summons, or at the hearing.

Article 33
1. If the defendant, after committing the criminal offence, is in a condition such that he is no longer able to understand the prosecution instituted against him, the court will suspend the prosecution, regardless of the stage which it has reached.
2. The suspension will be lifted as soon as the recovery of the defendant has been demonstrated.

Article 34
1. In the event of the suspension of prosecution, the court may nevertheless order urgent measures, officially or on the claim of the Public Prosecutors Office.
2. The court may order that the suspension will not cover what relates to the pre-trial detention.

Article 35
Before deciding on the suspension, the court may question witnesses and experts.

Article 36
Decisions concerning the suspension will be taken by the court before which the case is or will be prosecuted, or before which the case was last prosecuted, officially or on the claim of the Public Prosecutors Office, or at the request of the defendant or his counsel.

Article 37
The Public Prosecutors Office may file an appeal against decisions regarding the suspension with the Court of Justice within three days of their being handed down and the defendant may do so within three days of the service of the notification of the suspension.

TITLE VI
Handling by the Council Chamber

Article 38
1. In all cases in which a decision by the court at the hearing is not required or is not taken at the hearing officially, investigation and decision-making will take place in the Council Chamber. However, investigation and decision-making concerning all claims, requests or proposals take place at the hearing.
2. On pain of nullity, the Council Chamber of the Court of Justice must consist of three members. In the first instance, the Council Chamber serves as a single-judge chamber. In that case, the provisions of this Title apply likewise.
3. If the Council Chamber must hand down a decision after the commencement of the investigation at the hearing, the chamber will

consist of members who handled the case in the hearing as far as possible.
4. A judge that has conducted any investigation in the case as an examining judge will participate in an investigation and decision-making by the Council Chamber only with the consent of the Public Prosecutors Office and the defendant.

Article 39

1. Unless prescribed otherwise, the hearing in the Council Chamber is not held in open court.
2. If a hearing in open court is prescribed, the Council Chamber may order a full or partial hearing *in camera* in the interests of morality, public order or national security and if the interests of those involved in the case so require, or if, in the view of the Council Chamber, a public hearing would seriously harm the interests of good administration of justice.
3. An order, as referred to in paragraph 2, will be issued by the Council Chamber officially, on the claim of the Public Prosecutors Office or at the request of the defendant or other participants in the proceedings after the Council Chamber has heard the participants in the proceedings that have appeared in that regard. If one of the participants in the proceedings does not master the official language of the proceedings or does not do so adequately, he will be notified of the proceedings by an interpreter in a language that he understands.
4. The bench chairman may grant special permission to attend the non-public handling of the case.

Article 40

1. The Council Chamber is authorised to issue the necessary orders to ensure that the investigation that must precede its decision takes place in accordance with the provisions of this Code.
2. Unless otherwise prescribed, the Council Chamber shall hear or question the Public Prosecutors Office, the defendant and other participants in the proceedings, or shall at least summons them correctly to appear for that purpose. The Council Chamber may provide for written or oral information from the examining judge who was involved in the case.
3. The defendant and other participants in the proceedings may arrange to be represented by counsel or a lawyer during the handling in the Council Chamber.
4. The Public Prosecutors Office shall submit the documents relating to the Council Chamber. The Council Chamber is authorised to order the submission of case documents and documentary evidence. The defendant and other participants in the proceedings, as well as their counsels or lawyers, are authorised to view the contents of these documents.
5. Paragraphs 2 to 4 do not apply in as far as this would seriously harm the interests of the investigation.
6. The hearing or interrogation referred to in paragraph 2 may also be assigned to one of the members or deputy members of the Court of Justice or to deputy judges in the first instance in the Country in which the person to be heard is located. If the hearing or examination must take place elsewhere in the Kingdom from the location of the persons to be heard or examined, the Council Chamber may assign the hearing or

examination to the competent examining judge in that location. Article 42 applies likewise.

Article 41

1. The decision of the Council Chamber must be accompanied by a statement of the reasons. If public handling by the Council Chamber is prescribed, the decision will be handed down in public.
2. The decision will state the names of the members of the Council Chamber who handed down the decision and the date on which it was handed down. It will be signed by the bench chairman and the Clerk of the Court who attended the hearing.
3. In the absence of the bench chairman, a member of the Council Chamber will sign. If the Clerk of the Court is unable to sign, this will be reported in the decision.
4. Unless otherwise prescribed, the decision will be sent to the defendant and the other participants in the proceedings without delay. A participant in the proceedings who does not master the Dutch language in which the decision is recorded, or does not do so adequately, will be notified of the nature and content of the decision in a language that he understands.
5. The requirement of immediate dispatch, as referred to in paragraph 4, does not apply if the summonsing of the defendant or other participants in the proceedings was waived pursuant to Article 40(5). The dispatch shall take place as soon as the interests of the investigation permit this.

Article 42

1. The Clerk of the Court draws up a record of the investigation of the Council Chamber, covering the substantive content of the statements made and what took place during that investigation.
2. If the public prosecutor, the defendant, witness or expert or the counsel or lawyer require that any statement is recorded in their own words, this will take place as far as possible, in as far as the record does not exceed reasonable limits.
3. The record will be adopted by the bench chairman or one of the other members of the Council Chamber and by the Clerk of the Court and will be signed as soon as possible after the investigation. In as far as the judge or the clerk of the court is unable to do so, this will take place without his or her assistance and his or her unavailability will be reported at the end of the record.
4. This will be added to the case documents, together with the decision and the further documents submitted in the proceedings during the investigation in the Council Chamber.

TITLE VII
Interim injunction proceedings in criminal cases

Article 43

1. In all cases in which the interests of good criminal procedure, the execution of penalties and measures also covered by the term 'penalties' make an urgent provision necessary and no provision is made for a statutory regulation in that regard, a request for such a provision may be filed by the defendant or the party with a direct interest specifically concerning him in interim injunction proceedings in a criminal case.
2. In the same way, the Public Prosecutors Office is authorised to claim such a provision.
3. The case is brought before the Court of First Instance.
4. The reasons for the request or claim must be stated. If the court immediately takes the view that the party that filed the petition or claim is inadmissible or that there are no reasonable grounds for the petition or claim, the court will reject the requested relief without further investigation, giving a single reason.
5. The relief may contain both an order and a prohibition, including in relation to the petitioner's conduct in the future.
6. The decision will be handed down as soon as possible, as required in relation to the interests of the case.
7. In as far as the decision involves a sentence, it may be ruled that if or for as long as or as often as the convict fails to comply with the sentence, he will be liable to pay a sum of money, known as a penalty payment, to be fixed in the decision. Once it becomes due, the penalty payment is owed in full to the party that obtained the conviction. That party may enforce the penalty payment pursuant to the Title under which it is fixed. If the penalty payment is not settled, the court may order the coercive detention of the convict for a term to be set by the court, in response to the claim of the Public Prosecutors Office.
8. The court is authorised to order the enforcement of its decision with immediate effect, notwithstanding any appeal.
9. The possibility of an appeal to the Court of Justice is open to the petitioner and the convict within three days.
10. As far as possible, Articles 38 to 42 apply likewise. Article 44 applies likewise with regard to the directly interested party.
11. During handling of the petition or the claim, no more rights may be derived from the procedure referred to above than are permitted by the status of the criminal procedure.

TITLE VIII
General regulation relating to court decisions

Article 44

Unless a special regulation applies in that regard, all court decisions pursuant to this Code will be taken within the shortest possible term, stating the reasons, and will be notified in writing at the earliest opportunity to the Public Prosecutors Office, which will immediately provide for their service on the defendant. The term within which any legal remedy is made available commences on the date on which the decision is notified in writing or is served.

TITLE IX
Confidentiality

Article 45

Every person involved in the execution of this Code and who consequently has access to data which they know or should reasonably assume to be of a confidential nature, and for whom no confidentiality obligation already applies in relation to those data on the grounds of their office, profession or statutory regulations, is required to protect the confidentiality of those data unless and in as far as any statutory provision requires them to disclose them or the necessity of such disclosure arises from their duties in the execution of this Code.

TITLE X
Swearing in

Article 46

1. A person who must take an oath or pledge pursuant to the provisions of this Code shall:
   a. if he take an oath, shall raise the first two fingers of his right hand and speak the following words: 'So help me God';
   b. if he makes a pledge, shall speak the following words: 'This I pledge'.
2. The person in whose hands the oath is sworn presents the following statement to the person concerned, appropriate to his capacity:
   a. with regard to the witness: that he shall speak the truth and nothing but the truth;
   b. with regard to the expert: that he shall speak the truth in good conscience;
   c. with regard to the interpreter: that he shall perform his task in good conscience.
3. A person who derives the obligation to take the oath in a different manner from his religion may do so in that manner. The oath may also be sworn in the language that the person concerned normally speaks.
4. A person who, due to a physical or speaking disorder, is unable to take the oath in the manner provided for in paragraphs 1 and 3 shall take the oath in a manner as consistent with the provisions described in the paragraphs of the Article as possible, to be determined by the person in whose hands the oath is taken.
5. Instead of the oath, the person concerned may opt to make the pledge.

BOOK TWO
The defendant, his or her counsel, the victim and the expert

TITLE I
The defendant

Section 1
Definitions

Article 47

1. A defendant is deemed to be the person concerning whom a reasonable suspicion of guilt of any criminal offence arises in view of facts or circumstances.
2. During the prosecution, the defendant is deemed to be the person against whom the prosecution is directed.
3. A defendant who does not master the official language, or does not do so adequately, is authorised to enlist the support of an interpreter.
4. The rights accruing to the defendant also accrue to a convict against whom a criminal financial investigation has been instituted or concerning whom no final decision has been taken on the claim of the Public Prosecutors Office, as referred to in Article 1:77 of the Criminal Code.

Section 2
Legal aid

Article 48

1. The defendant has the right, in accordance with the provisions of this Code, to enlist the support of one or more lawyers or of a legal counsel assigned pursuant to Articles 61 to 68. The foregoing does not apply for questioning on the spot of a defendant stopped on suspicion of a traffic violation.
2. As soon as the defendant has been detained by law, his counsel shall be notified of this immediately. This will be reported in the record.
3. As far as possible, the defendant will be given an opportunity to connect with his counsel on request. If necessary, the support of an interpreter may be called upon for the contacts with his counsel. The counsel is responsible for summoning an interpreter.
4. The counsel is authorised to attend investigative proceedings. These are in any event deemed to include:
   - multiple identity parades during which the defendant stands alongside other persons in order to be identified by witnesses;
   - confrontations during which a defendant is brought together with one or more witnesses when there is disagreement among those witnesses regarding important facts or circumstances;
   - reconstructions of the location of an offence in the presence of the defendant, in order to better understand how and under which circumstances the criminal offence was committed.
5. The defendant may voluntarily and unambiguously waive the right to legal aid referred to in paragraph 1, unless this Code provides otherwise.
6. If the court or the investigating officer find that the defendant wishes to exercise the waiver referred to in paragraph 5, they shall inform him of the consequences of this and that he may reverse his decision. A record of this shall be drawn up.
7. Further rules may be imposed by national decree containing general measures concerning the design and sequence of the actions referred to above at which the counsel is in attendance.

Article 48a

1. The first examination may not commence until the defendant has been given an opportunity to consult his counsel, unless the investigation cannot be delayed or the arrival of the counsel cannot reasonably be awaited.

2. A defendant who is not or is not adequately able to oversee the consequences of any waiver or a defendant concerning a criminal offence, for which, according to the statutory description, a prison sentence of 12 years or more is set, may not waive the right referred to in paragraph 1. Other defendants may voluntarily and unambiguously waive this right after they have been informed of the consequences of this and that they may reverse their decision. A record of this waiver is drawn up.

Article 48b

1. The counsel is authorised to attend an interrogation by an investigating officer. He will be invited to do so at the defendant's request. If the counsel attends the examination, this will be reported in the record of the examination.
2. A defendant who is unable to oversee the consequences of any waiver, or is unable to do so adequately, may not waive the attendance rights referred to in paragraph 1. Other defendants may voluntarily and unambiguously waive these attendance rights after having been informed of the consequences of this and that they may reverse their decision. A record of this waiver is drawn up.
3. The counsel who attends the examination may put questions on that occasion, request clarification and make statements, but must refrain from everything that serves to influence the purport of the examination. Further rules concerning the design and sequence of an examination at which the counsel is also in attendance may be imposed by national decree, containing general measures.

Article 48c

1. The assistant officer may decide that:
   a. the defendant who is detained may be questioned on the spot immediately after his arrest without being given an opportunity to exercise his rights as referred to in Article 48(1),
   b. the examination referred to in Article 48b shall commence without counsel being available,
   c. the examination referred to in Article 48b shall commence or be continued without the detained defendant being offered an opportunity for the consultation referred to in Article 48a, or
   d. the counsel will not be admitted to the examination referred to in Article 48b.
2. The decisions referred to in paragraph 1 may only be taken in as far as and for as long as this is warranted due to the urgent need to:
   a. prevent serious negative consequences for the life, liberty or physical integrity of a person, or
   b. prevent substantial damage being caused to the investigation.
3. The decisions referred to in paragraphs 1b, 1c or 1d may be taken by the assistant public prosecutor only with the consent of the public prosecutor.
4. The decision and the grounds on which it is based shall be included in the record.

Article 49

In all cases in which the defendant is heard in accordance with the provisions of this Code, he is authorised to enlist the support of counsel. The counsel will be given an opportunity to make the necessary comments.

The counsel has the same authorisation if the defendant is not in a condition to be examined in person.

Article 49a

1. In all cases in which a defendant who does not master the language used or does not do so adequately is heard or examined, the support of an interpreter may be enlisted.
2. The interpreter will be summoned by the examining or interrogating officer, unless provided otherwise by national ordinance. During the preparatory investigation, the interpreter may be summoned orally. In all other cases, the summons is issued in writing.
3. The support of an interpreter is reported in the record.

Section 3
Right to remain silent

Article 50

1. The defendant has the right not to answer questions. Before an examination, the defendant is informed that he is not obliged to answer questions. This notification is included in the record.
2. In all cases in which a person is questioned as a suspect, the interrogating court or officer shall refrain from everything that serves to obtain a statement that cannot be said to have been made freely.
3. The defendant's statements, in particular those containing an admission of guilt, will be included in the record of the examination in his own words as far as possible.

Section 4
Case documents

Article 50a

1. The defendant may request the public prosecutor to add to the case documents records that he designates or other objects that he regards as important for the assessment of the case. The request will be made in writing, stating the reasons.
2. With a view to supporting his request, the defendant may request the public prosecutor's permission to view the documents referred to in paragraph 1.
3. If the public prosecutor fails to decide on the addition of the documents or their viewing, the examining judge may set a term, at the defendant's request, within which a decision must be made. Before deciding on the request, the examining judge shall hear the public prosecutor and the defendant.
4. The public prosecutor may reject the addition of the documents or their viewing if he takes the view that the documents cannot be regarded as case documents or if he regards this to be incompatible with one of the interests referred to in Article 227d(1). He requires written authorisation for this, to be granted in response to his claim by the examining judge.

Article 51

1. Permission to view the case documents will be granted to the defendant by the public prosecutor on request during the preparatory investigation. In any event, the defendant will be permitted to view the documents from the first examination.

2. Nevertheless, the public prosecutor may refuse the defendant access to certain case documents if this is required in the interests of the investigation. Grounds for this will then only exist in as far as the defendant's interest in access is outweighed by the interest on the grounds of which access is denied.
3. In the case referred to in paragraph 2, the defendant will be notified in writing, stating the reasons, that the documents to which he is granted access are not complete. Within 14 days of the date of this notice, and thereafter within thirty-day periods on each occasion, the defendant may submit a note of objection to the examining judge. Before taking a decision, the examining judge shall hear the public prosecutor and the defendant.
4. If the public prosecutor fails to grant the access, the examining judge, at the request of the defendant, may set a term within which the public prosecutor must grant the access to the case documents. Before deciding on the request, the examining judge shall hear the public prosecutor and the defendant.

Article 52

During the preparatory investigation, the defendant may not be denied access to:

a. the records of his examination;
b. the records of examinations or investigative actions which he and his counsel were authorised to attend, unless and in as far as the records reveal any circumstances of which he must temporarily remain unaware in the interests of the investigation and in connection with this, an order as referred in Article 70(2) has been issued;
c. the other records of examinations, if and in as far as he has been notified of the content of these.

Article 53

1. The defendant may receive copies of the documents to which he is granted access from the public prosecutor or the court registry; however, this may not detain the investigation.
2. In the interests of the protection of personal privacy or of the investigation and prosecution of criminal offences or on serious grounds based on the general interest, the public prosecutor may decide that copies of certain documents or parts of these will be provided. If, during the examination at the hearing, further documents are added to the case documents, the Court of First Instance or the Court before which the case is prosecuted may hand down a decision in accordance with the preceding sentence, either officially, in response to the claim of the public prosecutor or at the request of the defendant or the injured party.
3. In the circumstances referred to in the first sentence of paragraph 2, the defendant will be notified in writing that he will not be provided with copies of certain documents or parts of these.
4. The defendant may submit a note of objection to the examining judge against the notice referred to in paragraph 3 within 14 days of the date of issue of the notice. Before taking a decision, the examining judge shall hear the public prosecutor and the defendant.
5. Rules concerning the provision of copies and extracts and the manner in which viewing of case documents takes place may be imposed by national decree containing general measures.

Article 53a
A defendant who does not master the Dutch language in which the case documents are drawn up, or does not do so adequately, will be notified of the contents of the documents in a language that he understands on request, in accordance with the principles of reasonableness and fairness.

Article 53b
1. Subject to the provisions of Articles 4a and 54, as soon as the defendant is issued with a summons to appear in court for substantive handling of the case in the first instance, he may not be denied access to any case documents, in the original form or as copies. In that case, the decisions concerning access to case documents will be taken by the court that rules on the case or the court that last ruled on the case.
2. If any investigation has not led or will not lead to prosecution, the defendant or the former defendant may no longer be denied access to the case documents unless this is counter to the general interest of the criminal proceedings on urgent grounds. Articles 51 to 53 apply likewise.

Article 54
1. The defendant may be denied full or partial access to case documents drawn up in relation to his personality or mental condition only if the rapporteur declares that access must certainly not be regarded as being in the interests of the defendant and further, that no possibilities can be deemed to be available for the access to take place under the supervision of an expert. The Court of First Instance before which the case is prosecuted or was last prosecuted or, if no prosecution has yet taken place or has yet been instigated, the examining judge will decide in that regard.
2. If the defendant is denied full or partial access on the basis of the provisions of paragraph 1, his counsel may nevertheless be granted access.

Section 5
Handling within a reasonable term

Article 55
1. The defendant has the right to handling of his case within a reasonable term.
2. The term commences at the time at which the defendant expected and could reasonably have expected criminal prosecution of his case.
3. A term as a result of which the defendant has to live under the threat of prosecution or continued prosecution for longer than is generally regarded as desirable is deemed to be unreasonable unless exceptional circumstances can justify the passage of time.
4. If the defendant fails to exercise the power granted to him pursuant to Article 56(3), he may no longer invoke the unreasonableness of a term unless the quality of the criminal proceedings has been harmed by the passage of time to the extent that the court also officially finds that there are grounds to assess the passage of time and to attach consequences to this.

Article 56

1. The examining judge guards against unnecessary delays in the preparatory investigation. In particular, if the defendant is in pre-trial detention, the examining judge helps to ensure that the case is continued with the greatest possible speed.
2. If the investigation commences at the hearing, the supervision of needless delays is performed by the court that adjudicates on the case at the hearing or by the Court of Justice, after an appeal has been filed.
3. In response to the claim of the Public Prosecutors Office or at the request of the defendant or his counsel, the competent court may order that the investigation be continued or terminated within a final term. To that end, the court may provide for the necessary case documents to be submitted to it. After the investigation at the hearing has commenced, these powers also officially accrue to the court.
4. If a prosecution, having commenced, is not continued, the court may also declare the case closed.
5. The defendant shall be heard.
6. A decision as referred to in paragraphs 3 or 4 may be deferred for a final term if the Public Prosecutors Office provides plausible reason to assume that the investigation will be continued or that further prosecution will take place.
7. When the case is pending a hearing on appeal, Article 38(3) does not apply in relation to the Court of Justice.

TITLE II
The counsel

Section 1
General provisions

Article 57

1. Lawyers registered with the Court of Justice are admitted as counsel.
2. In exceptional cases, at the request of the defendant, the Court of Justice may permit a lawyer who is not registered with the Court of Justice to act as a counsel, but only under the responsibility of a registered lawyer who declares himself willing to accept that responsibility.
3. The same counsel may support more than one defendant if their interests do not conflict.

Article 58

1. The counsel immediately notifies the clerk of the court where the case will be handled of his action.
2. Powers explicitly assigned to the defendant by or pursuant to this Code may be exercised by his counsel if he is authorised by the defendant and this is not opposed by the nature of the powers.
3. The authorisation by the defendant will be assumed if the counsel declares this to be the case.
4. The counsel will immediately receive copies of all documents of which the defendant is notified pursuant to this Code.

Section 2
Choice of counsel

Article 59

1. The defendant is authorised to select one or more counsels at any time.
2. The legal representative of the defendant is also authorised to select one or more counsels.
3. If the defendant is prevented from expressing his will in that regard and has no legal representative, his spouse, life partner or any of his relatives by blood or affinity, until in the fourth degree, are authorised to make that choice.
4. The counsel chosen pursuant to paragraphs 2 or 3 or the counsel assigned pursuant to Articles 61 to 68 shall step down as soon as the defendant has chosen a counsel himself.
5. The way in which a choice pursuant to paragraphs 1, 2 or 3 should be demonstrated may be regulated by national decree containing general measures.

Article 60

1. For as long as the preliminary investigation lasts, the chosen counsel notifies the public prosecutor and the assistant office involved in the case of his action as such in writing. Similar notification takes place if the counsel no longer acts for a particular defendant.
2. If he replaces a chosen or assigned counsel, he shall also notify the persons referred to in paragraph 1 and the replaced counsel of this accordingly.
3. The work of the counsel replaced, assigned or chosen earlier ends as a result of this notification. A legal counsel who no longer acts for a defendant is required to make the complete file available to the following counsel without delay.
4. If investigative actions are performed according to Articles 221 to 223, the chosen counsel also notifies the relevant examining judge of his action, in writing.

Section 3
Assignment of a legal counsel

Paragraph 1
General provisions

Article 61

1. Unless provided otherwise in this Code, the assignment of a legal counsel is made by the institution designated for that purpose by a national decree containing general measures. Rules concerning the performance of the institution's tasks are imposed by or pursuant to this national decree.
2. As far as possible, the assignment takes place in accordance with the defendant's preferences.

Article 62

1. Every defendant who is deprived of his liberty on suspicion of a criminal offence for which pre-trial detention is permitted will be assigned counsel free of charge unless he has explicitly declared that he waives the right to the assignment of a defence counsel. Where applicable, the public prosecutor or the assistant public prosecutor will notify the institution responsible for the assignment of a defence counsel without delay.

2. An assignment pursuant to paragraph 1 remains in effect during the handling of the case in the first instance and on appeal unless the defendant does not prove to be destitute or impecunious within the meaning of the applicable regulations in the Country. In that regard, the preparatory investigation is deemed to form part of the handling in the first instance.
3. Further rules concerning the assignment to defendants deprived of their liberty may be imposed by or pursuant to a national decree containing general measures.

Article 63

1. If a defendant charged with a criminal offence is deprived of his liberty for reasons not connected to that offence and sufficient evidence has been provided that he is destitute, a legal counsel will be assigned to him free of charge on request before he is heard.
2. If changes arise in the defendant's circumstances such that in the view of the institution responsible for the assignment, the defendant can be deemed on the grounds of these changes to be able to bear the costs of counsel himself, the assignment free of charge will be terminated.
3. Further rules concerning the way in which the incapacity should be supported may be imposed by national decree containing general measures.
4. The defendant of a criminal offence will be notified of his authorisation to request the assignment of a legal counsel prior to the first examination. Furthermore, the defendant will be informed of this right as far as possible through its reporting in the case documents to be served.
5. If there is a suspicion that a defendant charged with a criminal offence suffers from underdevelopment or a disorder of mental capacity and that as a result, he is not able to represent his interests properly, the examining judge will officially assign a legal counsel to him during the preliminary investigation if he does not yet have counsel and his prosecution relating to the offence has commenced.
6. Further provisions concerning the notifications referred to in paragraph 4 may be laid down by or pursuant to a national decree containing general measures. Regulations concerning the way in which the request for assignment should be made may also be imposed in that decree.

Article 64

1. An assignment takes place only if the defendant has no counsel.
2. Every assignment applies for the handling of the case in both the first instance and on appeal. In that regard, the preparatory investigation is deemed to form part of the handling in the first instance.

Paragraph 2
Replacement of the assigned legal counsel

Article 65

1. If the assigned legal counsel is absent, another legal counsel will be assigned to the defendant. The assigned counsel shall notify the institution responsible for his assignation of his absence.

2. At the request of the assigned legal counsel or the defendant, a different legal counsel may be assigned. If the defendant is deprived of his liberty by law, the institution responsible for the assignation will be notified of the defendant's request by the public prosecutor at the earliest opportunity.
3. A legal counsel who no longer acts for a defendant is required to make the complete file available to the following counsel without delay.

Article 66
The assigned counsel may provide for the observation of certain actions to be performed by another lawyer on his behalf, provided that he or that other lawyer notify the public prosecutor and, in as far as necessary, the assistant public prosecutor of this in writing during the preparatory investigation or, if the case is pending before a court, that they notify the competent court.

Paragraph 3
Appeal concerning assignment

Article 67
1. During the preparatory investigation, the defendant may request the assignment of a legal counsel of the examining judge or, if the case is pending a hearing, may request this of the competent court, if:
   a. he does not yet have a legal counsel within 24 hours after the time at which assignment should have taken place pursuant to Article 62;
   b. his request, as referred to Article 63(1) and 65(2), has not been granted;
   c. the assignment referred to in Article 63(5) has not taken place;
   d. no other legal counsel has been assigned to him in the absence of the assigned counsel;
   e. the assignment on the grounds of Article 63(2) has been terminated.
2. A decision will be handed down on the request referred to in paragraph 1 at the earliest opportunity. Unless the request is granted immediately, the defendant shall be heard with regard to the request.

Paragraph 4
Notification of the assignment

Article 68
1. The public prosecutor, the counsel, the defendant and the examining judge, if the latter performs the investigative actions pursuant to Articles 221 to 223, shall be notified of every assignment and every change to this without delay, and if the defendant is held in a custodial institution, the director of that institution shall also be notified. Furthermore, Article 58(1) applies.
2. Further regulations may be issued on the manner in which the notification takes place by national decree containing general measures.

Paragraph 5
Remuneration and reimbursement of costs

Article 69
1. Resources for the remuneration of the aid provided by assigned legal counsel and for the reimbursement of necessary expenses that they incur shall be provided by the Country.

2. Further regulations may be imposed in this regard by national decree containing general measures.

Section 4
Powers of the counsel concerning communications with the defendant and viewing of case documents

Article 70

1. The counsel has free access to a defendant who has been deprived of his liberty by law, may speak to him in the absence of other persons and exchange letters with him without the contents being viewed by other persons, subject to the required supervision, in observance of the institutional rules, without prejudice to the requirements of the statutory provision and without this causing any delays to the investigation.
2. If certain circumstances give rise to a serious suspicion that free communication between the counsel and the defendant will either serve to make the defendant aware of any circumstances of which, in the interests of the investigation, the defendant should temporarily remain unaware or that this will be abused for the purpose of attempts to restrict the determination of the truth, the public prosecutor may recommend to the competent authorities during that preparatory investigation that the counsel be granted no access to the defendant or that the counsel may not speak to the defendant alone and that letters or other documents exchanged between the counsel and the defendant will not be issued. The order describes the particular circumstances referred to in the preceding sentence; it shall not restrict free communications between the counsel and the defendant more and shall not be issued for longer than is required by the circumstances and shall in any event be in force for no more than six days. The order may be renewed. The counsel and the defendant shall be notified of orders in writing without delay.
3. The counsel may submit a note of objection to the Court of Justice against the order or its renewal within three days of such notification. Articles 38 to 42 apply. In its decision, the Court may cancel, change or make additions to the order.
4. All restrictions of free communications between the legal counsel and the defendant ordered pursuant to one of the above paragraphs shall be terminated as soon as the summons to attend a hearing in the first instance for substantive handling of the case is served.
5. In the event of an order as referred to in paragraph 2, the public prosecutor shall notify the examining judge of this without delay. The examining judge shall assign a legal counsel to the defendant without delay.
6. The legal counsel assigned pursuant to paragraph 5 acts as such for as long as the order is in force and in as far as this restricts free communications between the counsel and the defendant,

TITLE III
The victim

Section 1

Definitions

Article 70a

1. For the purposes of this Title, the terms below are defined as follows:
   a. *Victim*:
      1°. A person who suffers proprietary damage or other adverse effects as a direct result of a criminal offence. A legal entity that suffers proprietary damage or other adverse effects as a direct result of a criminal offence is equated with the victim;
      2°. surviving dependants: family members of a person whose death was directly caused by a criminal offence.
   b. *Family members*: the spouse or life partner of the victim, the blood relatives in the direct line, the blood relatives in the collateral line to the fourth degree and the persons who were dependent on the victim.
   c. *Minor victim*: every victim who is aged less than 18.
   d. *Restorative justice*: enabling the victim and the defendant or the convict, with their voluntary consent, to actively participate in a process aimed at solving the consequences of the criminal offence with the aid of an unbiased third party.
2. In the interests of good procedural order, rules concerning the following may be imposed by national decree containing general measures:
   a. the restriction of the number of family members who may claim the rights described in this Title, taking account of the specific circumstances at all times, and
   b. the determination of which victims, as referred to in paragraph 1(2°), will take precedence for the exercise of the rights described in this Title.

Section 2
Rights of the victim

Article 70aa

1. The public prosecutor provides for correct treatment of the victim.
2. The police officer, public prosecutor or other investigating officers are responsible for referral of victims to an institution for victim support at which they have access to information, advice and support.
3. Regulations concerning the following may be imposed by or pursuant to national decree containing general measures:
   a. the access of victims and their family members to institutions for victim support, the conditions for such access and the financing, organisation and work of victim support institutions;
   b. an individual assessment to which the victim is subjected in good time in order to identify specific protective requirements and to determine whether and to what extent the victim should be able to make use of special measures, in particular during the preparatory investigation and the investigation at the hearing;
   c. measures to protect victims, in particular including minor victims and their family members;
   d. regulations covering the obligation to inform the child of his legal representative of all rights and measures relating specifically to the child.

Article 70ab

1. The police officer, public prosecutor or other investigating officers ensure that in his first contact with the investigating officer concerned, the victim is immediately provided with the information to enable him to gain access to the rights accruing to him.
2. Further rules concerning the content, offer and provision of information as referred to in paragraph 1 may be imposed by or pursuant to national decree, containing general measures.

Article 70ac

1. The public prosecutor ensures that the victim is immediately notified of his right to receive sufficient information on the commencement and progress of the proceedings, on the basis of a criminal offence committed against the victim. In particular the victim is notified of his right to receive information on the following:
   a. the waiver or termination of a criminal investigation;
   b. the non-prosecution of a criminal offence;
   c. submitting a statement against the defendant;
   d. the commencement and continuation of the prosecution and the offer of a deal;
   e. the nature of the charges against the defendant;
   f. the location, date and time of the hearing;
   g. the final judgment in the criminal proceedings against the defendant;
   h. the filing or absence of an appeal.
2. A victim is notified of the commencement and progress of the proceedings referred to in paragraph 1 on request. In particular, the police office or the other investigating officer is at least notified of the information referred to in the opening sentence of paragraph 1 and paragraph 1a and the public prosecutor is at least notified of the information referred to in the opening sentence of paragraph 1 and paragraph 1b. to 1h.
3. On request, as referred to in paragraph 2, the victim receives sufficient information to make a decision on whether to file a complaint with the Court, as referred to in Article 15. In addition to the decision, the notifications concerning the information referred to in paragraphs 1a and 1b at least contain the reasons or a summary of the reasons for the decision concerned.
4. The public prosecutor immediately notifies the victim on request of the release or escape of a defendant who is held in pre-trial detention or of a convict.
5. The public prosecutor notifies the victim on request of the measures taken for the victim's protection if a defendant who is held in pre-trial detention or a convict is released or escapes.
6. If there is a demonstrable risk that disproportionately serious damage will be caused to the defendant or convict as a result of the notice referred to in paragraphs 4 and 5, no notice will be issued.
7. Rules concerning the right of the victim to receive information on the proceedings and the issue of notices on the proceedings to the victim may be laid down by national decree, containing general measures.

Article 70b

1. At the victim's request, the public prosecutor will grant permission to view the case documents that are relevant to the victim.

2. The victim may request the public prosecutor to add documents that he regards as relevant for the assessment of the case against the defendant or of his claim against the defendant to the case file.
3. The public prosecutor may refuse to add documents or refuse access to these if he takes the view that the documents cannot qualify as case documents or if he regards this as incompatible with one of the interests referred to in Article 227d(1).
4. The public prosecutor requires written authorisation, to be issued by the examining judge on the claim of the public prosecutor, for the application of the third paragraph. The public prosecutor notifies the victim of this decision in writing.
5. The way in which the access to the case documents takes place may be regulated by national decree containing general measures.
6. The victim may obtain copies of the documents to which he is granted access from the court registry for a fee laid down in the national decree referred to in paragraph 5. Article 53(2) to 53(4) apply likewise.
7. During the investigation at the hearing, the consent referred to in paragraph 1 is not granted by the public prosecutor but by the Court of First Instance or the Court before which the case is prosecuted.

Article 70c

1. The victim may provide for support during the preparatory investigation and at the hearing.
2. The victim may provide for the support of a lawyer, his legal representative and also by a person of his choice.
3. The victim may arrange to be represented at the hearing by a lawyer if the latter explicitly declares that he is fully authorised for that purpose, or by an authorised person who holds a special written power of attorney for that purpose.
4. The police, the public prosecutor, the examining judge or the court may refuse the support of a victim by his legal representative or by a person of his choice or the representation of the victim by a legal representative or authorised person in the interests of the investigation or the interests of the victim. The reasons for the rejection must be provided.
5. If the victim does not master the official language or does not do so adequately, he may provide for the support of an interpreter.
6. Further rules may be imposed by national decree containing general measures regarding the support of an interpreter as well as the support of the victim in understanding and in being understood himself in his necessary contacts with the police, the Public Prosecutors Office and the courts.

Article 70ca

A victim who does not master or does not adequately master the language in which the information to which the victim is entitled is drawn up will be notified of the content of that information in a language that he understands on request, in accordance with the principles of reasonableness and fairness.

Article 70d

With the exception of Article 70aa(3)(b), Articles 70a to 70ca apply likewise to persons as referred to in Article 70f(3).

Article 70e

1. The right to speak may be exercised if the charge concerns an offence for which a prison sentence of eight years or more is set according to the statutory description, or concerns another criminal offence for which the victim has a serious interest in making such a statement. Persons with a right to speak will notify the public prosecutor of their intention to exercise that right in writing before the start of the hearing, to enable the public prosecutor to subpoena them in a timely manner.
2. The victim may make a statement at the hearing.
3. The right to speak may also be exercised by the father or mother of a minor victim who has a close relationship with the victim or by a person who cares for and raises that victim as a member of his family and has a close personal relationship with the child. The right to speak may be used jointly or individually. The head of the bench may restrict or deny the right to speak, officially or on the claim of the public prosecutor, due to a conflict with the interests of the minor victim.
4. If more than three surviving dependants have given notice of their desire to exercise their right to speak and they cannot agree on which of them should address the court, the head of the bench will decide which three persons may exercise the right to speak. The decision of the head of the bench is without prejudice to the fact that the spouse or life partner may address the court to exercise their right to speak.
5. Minors who have reached the age of 12 are included in the victims who may exercise the right to speak. This also applies for minors who have not yet reached that age and who can be deemed to be capable of a reasonable appreciation of their interests in that regard.
6. If the victim has not yet reached the age of 12, the right to speak may be exercised by their statutory representatives. The statutory representatives may also make statements on the consequences that the criminal offences referred to in paragraph 1 have caused for them personally. The head of the bench may decide, officially or on the claim of the public prosecutor, that the right to speak will not be exercised by the legal representative due to a conflict with the interests of the minor.
7. For a victim who is not able in practice to exercise the right to speak, the right to speak on the consequences of the criminal offence by which they have been affected may be exercised by the spouse or life partner and one of the other family members of the victim referred to in Article 70a(1)(b).
8. The persons referred to in paragraphs 2, 3, 5, 6 or 7 may request the head of the bench to allow the right to speak assigned to them to be exercised by their lawyer or a person with special authorisation for that purpose.

Section 3
Compensation for damage

Article 70f

1. Persons who have suffered direct damage as a result of a criminal offence may join the criminal proceedings as an injured party in relation to their claim for compensation for damage. In the view of the court, the claim must be of a nature that lends itself for a decision in the criminal proceedings.
2. The court may also admit the victim to this claim if a criminal offence for which not charge has been brought, as referred to in Article 412, is raised in the examination at the hearing and this offence can in principle be taken into account in the sentencing.

3. If the person referred to in paragraph 1 has died as a result of the criminal offence, his heirs may join themselves in relation to their claim acquired under universal title, as well as the persons referred to in Article 108(1) and 108(2) of Book 6 of the Civil Code in relation to the claims referred to there.
4. The persons referred to in paragraphs 1, 2 and 3 may also join the case for a part of their claim.
5. Those requiring legal aid or representation in order to appear in court in civil proceedings also need legal aid or representation for joinder in criminal proceedings in accordance with paragraph 1. No authorisation of the Court of First Instance for a guardian, as referred to in Article 349(1), Book 1 of the Civil Code, is required for that representative. With regard to the defendant, the provisions concerning legal aid or representation necessary in civil cases do not apply.

Article 70g

1. Together with the notice pursuant to Article 70ac(2) that a suspect will be prosecuted, the public prosecutor will send a form for joinder. Before the commencement of the hearing, joinder shall take place by means of a statement of the content of the claim and of the grounds on which it is based before the public prosecutor responsible for prosecution of the criminal offence. This statement shall be made writing by means of a form approved by the Minister and shall contain the surname, first names, date of birth and place of residence and accommodation of the injured party.

2. The public prosecutor shall notify the suspect of the joinder at the earliest opportunity in writing and, in the case referred to in paragraph 4, shall also notify his parents or guardian.
3. At the hearing, the joinder shall take place through the statement referred to in the first sentence of paragraph 1 to the court, at least before the public prosecutor is given an opportunity to speak in accordance with Article 353. This statement may also be provided orally.
4. If the claim of the injured party related to conduct of a defendant that can be regarded as an action at a time when the defendant had not yet reached the age of 14 and which could have been attributed to the defendant as an unlawful act if this had not been prevented by his age, the claim will be deemed to have been issued against his parents or guardian.

Article 70h

1. The Public Prosecutors Office facilitates notification of the victim and the defendant by the police at the earliest possible stage of the possibilities of restorative justice provisions, including mediation.
2. If mediation between the victim and the defendant has led to an agreement, the court will take this into account if it imposes a punishment and measure.
3. The Public Prosecutors Office will facilitate mediation between the victim and the defendant or convict after ensuring that the victim consents to this.
4. Further rules concerning restorative justice provisions, including mediation between the victim and the defendant or between the victim

and the convict may be imposed by national decree containing general measures.

TITLE IV
The expert

Article 70i

1. The court may appoint an expert with an assignment to provide information on or to conduct an investigation in a field of which he has specific or specialised knowledge.
2. The assignment that must be performed for the purpose of the investigation in the criminal proceedings and the term within which the expert must present the written report shall be reported with the appointment.
3. The expert will also be ordered to report truthfully and in good conscience.
4. Rules relating to the qualifications which certain experts must hold, the way in which the specific expertise of persons can be determined or tested in other cases and the way in which experts are appointed may be imposed by national decree containing general measures.

Article 70j

1. Every person appointed as an expert is required to provide proof of the services assigned by the court.
2. The court may impose a confidentiality obligation on the expert.
3. The expert may exercise rights of privilege in the cases referred to in Articles 251 to 253.
4. The expert will receive remuneration from the Country in the manner that may be determined by national decree containing general measures. Without prejudice to the provisions of Article 648, the examining judge may decide that an expert who has conducted research at the request of the defendant that proved to be in the interests of the investigation receive a fee from the Country. This fee shall not exceed the amount that the expert named in the public prosecutor's claim receives.

Article 70k

1. The expert shall present a report to his client, stating his reasons. If possible, the expert shall state the method he applied, the extent to which this method and the results

2. can be regarded as reliable and which skills he has in the application of the method.
3. The report shall be issued in writing unless the court provides that this may take place orally.
4. The expert declares that he has drawn up the report truthfully, fully and to the best of his ability. The report is based on what his science and knowledge teach him regarding the matters subjected to his opinion.

Article 70l

1. The court may question the expert officially, on the claim of the public prosecutor or at the request of the defendant. The court may issue him with a witness summons. With regard to the expert and his questioning, Articles 246 and 247 apply likewise.

2. In his examination at the hearing, the expert swears to make his statement truthfully and in good conscience.
3. No coercive detention order shall be issued in relation to the expert.

BOOK THREE
Some special coercive remedies

TITLE I
General

Article 71

The following also apply as general conditions for the application of every coercive remedy, subject to the other requirements imposed in this Code:

a. that, following consideration of the interests at stake, the application of the coercive remedy is not unreasonable;
b. that the authorisation to apply a coercive remedy may not be applied for a purpose other than that for which it is granted;
c. that the purpose of the coercive remedy cannot be achieved in a different, more effective and less invasive manner, and;
d. that the severity of the invasion to be caused by the coercive remedy is reasonably justified by the severity of the criminal offence.

TITLE II
Apprehension and arrest

Article 72

1. Every investigating officer is authorised to require a suspect to state his surname and first names, date of birth, place of birth, address at which he is registered in the personal records database and his place of residence or accommodation and to apprehend him for that purpose. The suspect is obliged to comply with the claim.
2. The investigating officer is also authorised to ask witnesses for the data referred to in paragraph 1.

Article 73

1. In the event that a perpetrator of any criminal offence is caught in the act, anyone has the right to arrest the suspect.
2. If the arrest is made by an investigating officer, he will ensure that the suspect is taken to a place of investigation without delay and immediately thereafter is brought before a public prosecutor or an assistant officer.
3. If the arrest is made by the public prosecutor or an assistant officer, they will take the suspect to an investigation location without delay; they may also order the arrest of the suspect or that he be brought forward.
4. If the arrest is performed by another person, that person shall immediately hand over the suspect to an investigating officer, surrendering to him any seized objects. The investigating officer will then act in accordance with the provisions of paragraph 2. Paragraph 3 applies in the event of a handover to the public prosecutor or the assistant officer.

Article 74

1. The public prosecutor is also authorised to detain a person suspected of any criminal offence for which pre-trial detention is permitted, or on suspicion of a criminal offence described in Article 3:17 of the Criminal Code if the defendant is not caught in the act, and to bring them to an investigation location without delay; the public prosecutor may also issue a warrant for the arrest of the defendant or to bring the defendant before a court.
2. If it is not possible to await the action of the public prosecutor, equivalent powers accrue to the assistant public prosecutor. The assistant public prosecutor notifies the public prosecutor of the arrest, orally or in writing, without delay.
3. If it is also not possible to await the action of an assistant public prosecutor, every investigating officer is authorised to arrest the suspect, with the obligation to ensure that he is brought before the public prosecutor or the assistant public prosecutor without delay. The second sentence of paragraph 2 applies to the assistant public prosecutor before whom the suspect is brought forward.
4. Authorisation to make an arrest other than in the case where a suspect is caught in the act accrues to a person in the public service of a foreign state who exercises the cross-border right of pursuit in the Country in the manner permitted by international law, subject to the obligation to act in relation to the detainee in the manner described in paragraph 3.

Article 75

The assistant public prosecutor before whom the suspect is brought forward notifies the public prosecutor of the arrest within 24 hours, orally or in writing.

TITLE III
Entry of locations for the purpose of arrest

Article 76

1. If the perpetrator of a criminal offence is caught in the act, any person may enter any location for the purpose of arresting the suspect, with the exception of a residential property for which the occupant has not granted explicit consent for entry, and the locations named in Article 164 at the times referred to in that Article.
2. Every investigating officer may enter any location to arrest the suspect, whether or not he is caught in the act. Articles 155 to 164 apply.
3. An investigating officer who has entered a location, in accordance with paragraph 2, pending the arrival of the officer authorised to search the location for the purpose of an arrest, may take the measures that are reasonably necessary to prevent the suspect from avoiding his arrest.

Article 77

1. If a perpetrator of a criminal offence is caught in the act or on suspicion of an offence for which pre-trial detention is permitted, the public prosecutor may search every location for the purpose of detaining the defendant.
2. In a case of urgent necessity and if the action of the public prosecutor cannot be awaited, an assistant public prosecutor may exercise this authorisation. In that case, he shall notify the public prosecutor of the search without delay.

3. Searching of locations takes place under the leadership of the public prosecutor or, if paragraph 2 is applied, under the leadership of the assistant public prosecutor.
4. Articles 155 to 164 apply.

TITLE IV
Search of the body and clothing

Article 78

1. In the event of serious objections against the defendant, the public prosecutor or the assistant officer before whom the defendant is brought or who arrested the defendant himself may, in the interests of the investigation, order a body search of the defendant or a search of his clothing. The other investigating officers are authorised to search the clothing of a detainee against whom there are serious objections.
2. In the event of serious objections against the defendant, the public prosecutor may order a body cavity search of the defendant in the interests of the investigation. 'Body cavity search' refers to the external examination of the orifices and cavities of the lower body, X-ray examination, ultrasound examination and internal manual searches of the orifices and cavities of the body. The physical examination shall be performed by a physician. The physician is authorised to use aids for that purpose. The search will not be conducted if this is undesirable for special medical reasons.
3. In as far as possible, the searches referred to in paragraphs 1 and 2 will be conducted in a closed space by persons of the same gender as the suspect.
4. The investigating officer is authorised to search the clothing of a suspect who has been apprehended or arrested to provide proof of his identity, as well as to search objects that he carries with him, in as far as this proves necessary in order to establish his identity.
5. In conducting a search as referred to in paragraphs 1 and 4, the investigating officer is authorised to make use of detection equipment and other tools.
6. Further rules concerning the conduct of a search, as referred to in this Article, may be imposed by or pursuant to a national decree, containing general measures.

Article 79

1. In the event of suspicion of a criminal offence for which pre-trial detention is permitted, the public prosecutor may, in the interests of the investigation, order testing of available cellular materials aimed at determining characteristics of the appearance of an unknown defendant or unknown victim. Further rules concerning the manner of conducting the search may be imposed by national decree containing general measures.
2. The public prosecutor appoints an expert who is assigned to perform an examination as referred to in paragraph 1. The expert submits a report to the public prosecutor stating the reasons. Laboratories to which the experts should be affiliated may be designated by national decree containing general measures.

TITLE V

Detention for the purpose of investigation

Article 80

1. If a detained suspect is taken to a place of investigation, he may not be detained for more than nine hours in the interests of the investigation, on the understanding that the time between 10.00 p.m. and 8.00 a.m. will not be included. The assistant public prosecutor may decide, if this is specifically required in the interests of the investigation, that the investigation will be continued or commenced after 10.00 p.m. If the suspect is physically involved in the investigation after 10.00 p.m., the duration of the investigation will be deducted from the nine hours.
2. The term commences at the time at which the suspect arrives at the investigation location.
3. If the suspect is unable to undergo the investigation, the term commences at the time at which he is able to do so.
4. If the detention takes place with a view to establishing identity, the term of nine hours referred to in paragraph 1 may be extended by a maximum of six hours on one occasion, on the orders of the public prosecutor, for a detainee suspected of a criminal offence for which no pre-trial detention is permitted.
5. Custody as referred to in paragraphs 1 and 4 takes place in the interests of the investigation, including the interest of issuing notices on the criminal proceedings to the suspect, in person. During apprehension for questioning, the suspect must be heard.
6. The renewal order shall be dated and signed. The order contains a brief description of the criminal offence of which the detainee is suspected and of the facts and circumstances on which those suspicions are based. The suspect is named in the order or, if his or her name is not known, is identified as clearly as possible. A copy of the order is issued to the suspect without delay. If the suspect does not master the Dutch language in which the order is issued, or does not do so adequately, he shall be informed of the content of the order in a language that he understands.
7. If the interests of the investigation consist only of the issue of a notice on the criminal proceedings to the defendant in person, this notice will be issued without delay and the suspect will then be released. In that case, the time between 10,00 p.m. and 8.00 a.m. will be included.

Article 81

1. Measures may be ordered against the suspect held for investigation, in the interests of the investigation. The following, *inter alia*, qualify as such measures:

a. taking photographic or video recordings and taking physical measurements;
b. taking fingerprints;
c. the application of an identity parade;
d. the application of a smell identification test;
e. shaving or cutting or a prohibition on shaving or cutting a moustache, beard or head hair;
f. wearing certain clothing or certain attributes for the purpose of an identity parade;
g. placement in an observation cell;
h. search for gunshot residues on the body.

2. Except for the measures referred to in paragraph 1a and 1b, a warrant for the measures referred to in paragraph 1, in as far as these

measures are aimed at establishing the identity, may be issued only in the case of suspicion of a criminal offence for which remand in custody is possible.

3. The measures in the interests of the investigation referred to in paragraphs 1a and 1b may be ordered by the assistant public prosecutor. The other measures may be ordered by the public prosecutor.
4. If it is not possible to await the action of the public prosecutor, the measures referred to in paragraphs 1c, 1d, 1f, 1g and 1h may be ordered by the assistant public prosecutor if the action of the public prosecutor cannot be awaited.
5. Further rules concerning the measures that may be ordered in the interests of the investigation may be imposed by national decree containing general measures.

TITLE VI
Notification of rights on arrest for investigation

Article 82

1. On being stopped and required to provide proof of identity, or on his arrest, the suspect will be notified of the criminal offence of which he is suspected. Other than in cases of being stopped for the purpose of providing proof of identity and arrest, the suspect will receive this notification at least before the first examination.
2. Prior to his first examination, a suspect who has not been arrested will be notified of his right to legal aid and if applicable the right to interpretation and translation in accordance with this law, without prejudice to Article 50(1).
3. Immediately after his arrest and in any event prior to his first hearing, the arrested suspect will be notified in writing, without delay, of the following:
   a. the right to receive the information referred to in paragraph 1;
   b. the rights referred to in paragraph 2;
   c. the fact that he is not obliged to answer questions on the occasion of a hearing;
   d. the right to view the case documents in the manner provided for in Articles 50a to 54;
   e. the term within which the suspect will be brought before the examining judge pursuant to this Code, in as far as he is not released;
   f. the possibility of requesting the withdrawal or suspension of the pre-trial detention pursuant to this Code;
   g. the right to notify a person of his deprivation of liberty as referred to in paragraph 7;
   h. the right to notify the consular post of his deprivation of liberty, as referred to in paragraph 8.
   i. the rights designated by national decree.
4. The detained suspect will be handed a form explaining the rights referred to in paragraph 3. The model of the form may be established by national decree containing general measures. The form shall be available at all times in at least the following languages: Dutch, Papiamento, English and Spanish.

5. After being notified of his rights, the defendant signs the form 'as read'. If the defendant refuses to sign, this is reported in the statement. A copy of the form shall be added to the case documents.
6. The notification will be issued in a language that the suspect understands. In the event of well-founded doubts as to whether a suspect has understood the notice properly, the examination shall not commence until the support of an interpreter has been enlisted.
7. At the request of the detained suspect, the assistant public prosecutor who orders that the defendant be detained for investigation when he is brought before the court shall notify at least one person designated by the defendant of his deprivation of liberty without delay.
8. At the request of a detained suspect who does not hold Dutch nationality, the assistant public prosecutor who decides to detain the suspect for investigation when he is brought before the court shall notify the consular post of the country of which the suspect is a national of his deprivation of liberty without delay.
9. The assistant public prosecutor may defer the notification referred to in paragraph 7 in as far as and for as long as this is justified in the interests of the investigation.
10. The decision referred to in paragraph 9 and the grounds on which this is based shall be reported in the record.

Article 82a

1. Without prejudice to the provisions of Article 82, the suspect will be notified of his right to legal assistance, as referred to in Article 48:
   a. for the remand in custody and for the claim for remand in custody by the assistant public prosecutor or the public prosecutor,
   b. in the event of any investigation conducted on the grounds of Articles 221 to 223 by the examining judge or by persons charged with conducting the examination on the instructions of the examining judge;
   c. if an appeal or appeal in cassation is registered by the court registry.
2. The right referred to in paragraph 1 will also be notified in writing on the issue of:
   a. the summons to appear at the hearing,
   b. an appeal or appeal in cassation filed by the Public Prosecutors Office.

TITLE VII
Remand in custody

Article 83

1. In the interests of the investigation, the public prosecutor or the assistant officer before whom the suspect is brought, or who personally arrested the suspect, may order that the suspect remain available to the judiciary during the investigation and be remanded in custody for that purpose at a location designated in the order. 'The interests of the investigation' includes the interest of issuing notices on the criminal case to the suspect in person.
2. The suspect is questioned by the public prosecutor or the assistant officer before the order is issued.
3. The questioning is reported in the statement.

4. The assistant officer shall notify the public prosecutor of his order at the earliest opportunity, and in any event within 24 hours, orally or in writing.
5. The public prosecutor shall order the release of the suspect for as long as the interests of the investigation permit this. In the first 24 hours, the assistant officer is also authorised to do so unless the public prosecutor has given notice that he wishes to exercise that authorisation himself. If the interests of the investigation consist only of issuing notice of the criminal proceedings, this notice will be issued without delay and the suspect will then be released.
6. If the assistant officer does not order the release, he shall bring the suspect before the public prosecutor unless the latter decides otherwise.

Article 84
The public prosecutor shall provide for a detained suspect whose custody he regards as necessary to be brought before the examining judge without delay.

Article 85
If the suspect is not remanded in custody in accordance with Article 83 or brought before the examining judge in accordance with Article 84, he shall be released unless he is detained for investigation in accordance with Article 80(4).

Article 86
A warrant for remand in custody is granted only in the case of a criminal offence for which pre-trial detention is permitted. If the investigation of the case at the hearing in the first instance has commenced, such a warrant may no longer be issued for the same offence.

Article 87
1. The warrant for remand in custody remains in force for a maximum of three days.
2. In the event of urgent necessity in the interests of the investigation, the remand in custody may be extended by the public prosecutor on one occasion only, by a maximum of three days. As soon as the interests of the investigation permit, the public prosecutor will order the release of the suspect.
3. The suspect will be heard by the public prosecutor before being brought before the examining judge in accordance with Article 89.
4. The terms commence at the time of the enforcement. They do not run during the time in which the suspect has evaded the enforcement of the order.

Article 88
1. A warrant for remand in custody or its renewal must be dated and signed.
2. The warrant shall contain the most accurate possible description of the criminal offence and as far as possible, will state the date and location of the offence, the grounds for its issue and the particular circumstances that led to the acceptance of those grounds. It shall also state the time at which and the term for which it has been issued, as well as the location at which the remand in custody will take place.

3. The suspect will be identified in the warrant by his surname, first names and other known personal data or, if these are not known, will be identified as clearly as possible.
4. A copy of the order will be handed to the suspect without delay. If the suspect does not master the Dutch language in which the order is issued, or does not do so adequately, he shall be informed of the criminal offence of which he is suspected, the grounds for extradition and the validity of the order at the earliest opportunity, in a language that he understands. A copy will also be provided to the social rehabilitation and probation institution.

Article 89

1. As soon as possible, and no later than during the first term of his remand in custody, the suspect shall be brought before the examining judge in order to be heard. The public prosecutor and the legal counsel are authorised to attend and will be given an opportunity to make the necessary comments.
2. If the examining judge finds continuation of the remand in custody to be unlawful, he will order the immediate release of the suspect. If no such order is issued, the order issued by the public prosecutor or the assistant officer have the full force of law.
3. If the suspect has not been brought before the court in accordance with paragraph 1, he will be released immediately.
4. The public prosecutor may file an appeal with the Court against the decision of the examining judge referred to in paragraph 2 within three days of that decision being handed down. Unless the Court immediately rejects the appeal, the defendant will be heard or at least, will be correctly summoned for that purpose. The Court may issue a warrant to bring him before the court. The Attorney-General and the counsel will be granted an opportunity to make the necessary comments. The Court shall hand down a decision at the earliest opportunity. The decision shall state the reasons and will be notified to the Public Prosecutors Office and the defendant in writing.

Article 90

1. A defendant remanded in police custody will be made subject to restrictions only if the absence of concrete restrictions would unacceptably harm the interests of the investigation or the interests of order at the police station.
2. Without prejudice to the provisions of Article 70, measures in the interests of the investigation may be ordered against the defendant referred to in paragraph 1. In addition to the measures referred to in Article 81(1)(a) to 81(1)(h), measures including the following may be designated as such measures:
   a. restrictions concerning receiving visitors, telephone calls, exchanging letters and the provision of newspapers, reading materials or other data carriers or other measures relating to the stay in connection with the deprivation of liberty;
   b. the transfer to a hospital or other institution for medical supervision is assured, or a stay under medical supervision in a cell equipped for that purpose.
3. Further rules concerning the handling of persons remanded in custody and the requirements with which the locations for remand in custody must meet may be imposed by national decree containing general

measures, in as far as no provision is made for this in a special national ordinance containing rules for the enforcement of deprivation of liberty.
4. In the interests of the investigation, the measures referred to in Article 81(1)(a) and 81(1)(b) may be ordered by the assistant public prosecutor. The other measures may be ordered by the public prosecutor.
5. The measures referred to in Article 81(1)(c), 81(1)(d), 81(1)(f), 81(1)(g) and 81(1)(h), as well as the measures referred to in paragraph 2 of this Article may be ordered by the assistant public prosecutor if it is not possible to await the action of the public prosecutor.
6. The defendant may submit a note of objection to the order referred to in paragraph 2(a) to the examining judge.
7. Pending the decision of the court on the note of objection, a measure may not be enforced unless the public prosecutor regards its immediate enforcement as entirely necessary in the interests of the investigation.
8. Rules concerning the application of this Article may be imposed by national decree containing general measures.

Article 91

1. Without prejudice to the provisions of Article 89, the defendant may request his release from the examining judge in writing during the period of his remand in custody. The examining judge hears the defendant and the public prosecutor if he considers that there are grounds to do so.
2. A decision will be taken on the request at the earliest opportunity. If the examining judge finds the deprivation of liberty to be unlawful, he shall order the immediate release of the defendant.
3. The public prosecutor may file an appeal against the decision of the examining judge referred to in paragraph 2 with the Court within three days of the decision being handed down. Unless the Court immediately rejects the appeal, the defendant will be heard or at least, will be correctly summoned for that purpose. The Court may issue a warrant to bring him before the court. The Attorney-General and the counsel will be granted an opportunity to make the necessary comments. The Court shall hand down a decision at the earliest opportunity. The decision shall state the reasons and will be notified to the Public Prosecutors Office and the defendant in writing.

TITLE VIII
Pre-trial detention

Section 1
Custody

Article 92

1. On the claim of the public prosecutor, the examining judge may issue a warrant for the defendant’s remand in custody. The Clerk of the Court shall notify the legal counsel of the warrant, orally or in writing, without delay and will also notify him, as well as the public prosecutor and the assistant officer, of the location at which and if possible, the time at which the defendant will be heard by the examining judge.
2. If the examining judge immediately finds that there are no grounds to issue such a warrant, he will reject the claim.

3. In the opposite case, before deciding, he will hear the defendant with regard to the claim of the public prosecutor and to that end, may order that he be summoned, if necessary with a warrant to bring him before the court. If it is not possible to await the prior hearing of the defendant, he will be heard at the earliest opportunity after the order is handed down.

Article 93

1. The custody order remains in force for a term to be fixed by the examining judge, of no more than 14 days.
2. The term during which the order is in force may be extended by the examining judge on the claim of the public prosecutor, with the proviso that the term of the order and the extension of this term shall not exceed a period of 14 days in total. The defendant will be given an opportunity to be heard on every claim for an extension pursuant to this Article.
3. As soon as the examining judge or the public prosecutor finds that the warrant should be withdrawn, he shall order the release of the defendant. The examining judge may do this officially or in response to a request from the defendant.
4. If the investigation at the hearing commences within the term fixed pursuant to paragraphs 1 or 2, the warrant will remain valid indefinitely and will remain in force until it is withdrawn.

Article 94

1. Custody will be enforced only in a remand centre, unless the examining judge rules otherwise.
2. Article 90, with the exception of Article 90(5) to 90(7), applies likewise in relation to the custody.
3. The implementation of the measures ordered pursuant to paragraph 2 will take place in the remand centre under the responsibility of the director of the remand centre.
4. In exceptional circumstances, the examining judge may order that the remand in custody take place elsewhere in the Kingdom.

Section 2
Imprisonment

Article 95

In response to the claim of the public prosecutor, the court may order the detention of a defendant who is in custody, but not until after the defendant has been given an opportunity to be heard.

Article 96

If this is necessary in order to obtain the extradition of the defendant, the court may issue a warrant for the defendant’s arrest in response to the claim of the public prosecutor.

Article 97

Except in the case referred to in Article 99a(1), the court may issue a warrant for the arrest of the defendant after the commencement of the investigation at the hearing, officially or in response to the claim of the public prosecutor. If possible, the court will hear the defendant in advance;

to that end, it is authorised to order the summons of the defendant, if necessary with a warrant to bring him before the court.

Article 98

1. The arrest warrant or detention order is in force for a term to be determined by the court, not exceeding 90 days.
2. If the warrant or order is issued at the hearing or the investigation at the hearing has commenced within the term determined pursuant to paragraph 1, the warrant remains valid for an indefinite term, until such time as it is withdrawn.
3. The term during which the order or warrant is in force may be extended by the court on the claim of the public prosecutor prior to the commencement of the investigation at the hearing, with the proviso that the term of the warrant or order and its renewal may not jointly exceed 90 days. The defendant will be given an opportunity to be heard in relation to every claim based on this Article.
4. In the event of the suspicion of a terrorist offence, the term of the arrest warrant or detention order may be extended after 90 days for a maximum of two years, by periods that do not exceed a term of 90 days. In that case, the handling of a claim for an extension will be conducted in open court.
5. Paragraphs 1 and 2 apply likewise to orders for an extension in accordance with paragraphs 3 and 4.

Article 98a

1. If, during the enforcement of the pre-trial detention, the public prosecutor decides to prosecute or to continue prosecution of an offence other than that described in the warrant for pre-trial detention or solely for an offence related to the offence described in that warrant and pre-trial detention may be ordered for that other or related offence, he may claim that the pre-trial detention be ordered partly or solely for that other or related offence. As far as possible, that claim will be made with the claim for imprisonment or extension of imprisonment.
2. If the claim referred to in paragraph 1 is granted, the other offence is deemed to be included in the description referred to in Article 110(2).
3. Following service of the subpoena in the first instance, no other offences shall be included in the description.
4. Articles 109 and 110 apply likewise.

Article 99

Article 94 applies with regard to the detention and the arrest.

Section 2A
Exceeding the term

Article 99a

1. If the validity of the warrant for the pre-trial detention has expired, the Public Prosecutors Office may also urgently claim the continued detention of a defendant who has not yet been released prior to the commencement of the investigation at the hearing, if
   a. the warrant has expired or was not renewed in time,
   b. the conditions for the application of pre-trial detention still exist, and
   c. the warrant for the pre-trial detention was issued in relation to the suspicion of a criminal offence for which, according to the statutory description, imprisonment for eight years or more is imposed.

2. The court will give a defendant who is present at the hearing an opportunity to be heard in relation to the claim.
3. The claim for arrest will be served upon a defendant who is not in attendance at the hearing without delay. The court will not take a decision until after the defendant has been heard or has at least been correctly summonsed. The court may issue a warrant for the defendant to be brought before the court.
4. The court will hand down a decision on the claim at the earliest opportunity. The defendant will not be released pending the decision on the claim for arrest.

5. If no subpoena has yet been issued, the judge in the Council Chamber will apply the provisions of paragraphs 2 to 4.
6. The terms referred to in Articles 108(2) and 314 apply likewise. After a sentence in the second instance, Article 108(3) applies.

Section 3
Cases in which pre-trial detention is permitted

Article 100

1. A warrant for pre-trial detention may be issued in the event of the suspicion of:
   a. a criminal offence for which the statutory description imposes a prison sentence of four years or more, or
   b. one of the crimes described in Articles 2:69(1) 2:70, 2:73, 2:74, 2:206, 2:207, 2:255(1), 2:298, 2:302, 2:334(1) 2:336(1) 2:338, 2:376 and 2:377 of the Criminal Code.
2. The warrant may also be issued if the suspect is shown to have no fixed abode within the Kingdom and is suspected of a criminal offence for which, according to the statutory description, a prison sentence is imposed.

Section 4
Grounds for pre-trial detention

Article 101

1. A warrant as referred to in Article 100 may be issued only if the facts or circumstances reveal serious objections to the suspect in relation to the crimes referred to in that Article and also:
   a. if certain conduct of the suspect or certain circumstances relating personally to the suspect show a serious risk of flight, or;
   b. if certain circumstances reveal serious public safety reasons requiring the immediate deprivation of liberty.
2. A more serious reason relating to public safety may be taken into account for the application of paragraph 1 only:
   a. in the event of the suspicion of an offence for which a prison sentence of eight years or more may be imposed and the legal order would be seriously disrupted by that offence, or;
   b. if the possibility must be seriously taken into account that the suspect will commit an offence for which a prison sentence of six years or more is imposed according to the statutory description, or which could endanger the security of the Country or the health and safety of persons, or could give rise to a general risk to property, or;
   c. if there is a suspicion of one of the crimes described in Articles 2:255, 2:273, 2:288, 2:298, 2:299, 2:302, 2:305, 2:306, 2:334(1)

2:399 and 2:406 of the Criminal Code, while less than five years have passed since the day on which a custodial sentence or measure was imposed on the suspect for one of these crimes, or a custodial measure or community service order against him became final and the possibility that the defendant will commit one of these crimes again must be taken seriously into account, or;

d. if there is a suspicion of a criminal offence under the Firearms legislation or a suspicion of one of the crimes described in Articles 2:82, 2:98, 2:255, 2:273 to 2:276 or 2:334 of the Criminal Code, committed in a location accessible to the general public or directed against persons with public duties and the hearing of the offence will take place within the term of the suspect's custody;
e. if the pre-trial detention is reasonably necessary for revealing the truth, other than through statements of the defendant;

3. No warrant for pre-trial detention will be issued if the possibility must seriously be taken into account that in the event of a conviction, no unconditional custodial sentence or measure resulting in deprivation of liberty will be imposed on the suspect, or that in the enforcement of the order, he would be deprived of his liberty for longer than the term of the punishment or measure.
4. 'Persons with public duties', as referred to in paragraph 2d, includes persons who perform emergency or service-provision tasks for the general public and in the general interest.
5. By way of derogation from paragraph 1, serious objections are not required for a warrant for remand in custody in the event of suspicions of a terrorist offence. In the case of suspicions of a terrorist offence, a detention order may also be issued against the suspect for a term of at least 10 days, without there being serious objections in relation to the suspect, where the term of the custody orders without serious objections do not exceed a total period of 30 days.

Section 5
Enforcement and withdrawal of warrants for pre-trial detention

Article 102

1. The term for which a warrant for pre-trial detention is in effect does not run during the term in which the defendant has evaded the execution of the order or is deprived of his liberty on other legal grounds. However, if the defendant serves a custodial sentence during the term for which the warrant for pre-trial detention is issued, the enforcement of that sentence will be suspended by law for as long as the order is in effect. As far as necessary, that suspension will be overturned if the period of the pre-trial detention cannot be deducted from any new punishment to be imposed.
2. If a note of objection is filed against the summons within the term in which the warrant for pre-trial detention is in effect, the warrant will remain in effect, without prejudice to the provision of Article 98(2), until 30 days have passed since the date on which a final decision is handed down on the appeal.

Article 103

1. The warrant for the pre-trial detention may be withdrawn by the court outside the case provided for in Article 93(3). The court may do this officially or on the request of the suspect or, in as far as an arrest

warrant or detention order is concerned, on the recommendation of the examining judge or on the claim of the public prosecutor.
2. A suspect who requests withdrawal for the first time will be given an opportunity to be heard on the request unless the court decides to grant the request immediately. The public prosecutor and the counsel will be given an opportunity to make the necessary comments. The court shall hand down a decision at the earliest opportunity. The decision will be handed down stating the reasons and will be notified to the Public Prosecutors Office and the suspect in writing.
3. Pending the decision of the court on a request or claim for the withdrawal of an arrest warrant or detention order, the public prosecutor may order the release of the suspect. If the court rejects the claim, the order will be further enforced without delay.

Section 6
Appeal against warrant for pre-trial detention

Article 104

1. No more than three days after the enforcement, the defendant may file an appeal with the Court of Justice against the decision containing an arrest warrant or detention order.
2. Within the same term, the defendant may appeal against an order to extend the detention.
3. The suspect may also file an appeal with the Court of Justice against a rejection of a request of the suspect in accordance with Article 93(3) or Article 103(1), within three days of the service of the decision or, if a decision rejecting the request is made at the hearing, within three days of this being handed down, but only if he has not appealed previously against a rejection of his request for release.
4. If the examining judge or the court has withdrawn the warrant for the pre-trial detention, other than in response to the claim of the public prosecutor, the public prosecutor may file an appeal against this decision to the Court of Justice within three days of that withdrawal.
5. Articles 38 to 42 apply likewise. The Court may issue a warrant to bring the defendant before the court. The Court shall hand down a decision at the earliest opportunity.
6. The Court is officially authorised to order the suspension of the pre-trial detention referred to in Article 111.

Section 7
Pre-trial detention on and after final judgments

Article 104a

1. Nevertheless, despite any earlier withdrawal, in the final judgment the court may officially order the detention or arrest of the suspect or termination of the suspension with a sentence of unconditional imprisonment for a term of one year or more, or a deprivation of liberty measure. Articles 100 and 101 will then not apply.
2. If the defendant is already in pre-trial detention on the final judgment in the court of first instance and the order for this is not terminated, the pre-trial detention is deemed to be based on the conviction in the first instance, separately from Articles 100 and 101.

Article 105

1. With all final decisions, subject to the provisions of Article 34(2), the warrant for the pre-trial detention will be withdrawn if neither a custodial sentence is handed down for a longer term than the time already spent on pre-trial detention nor a measure that entails or may entail deprivation of liberty is unconditionally imposed on the defendant in relation to the offence for which that warrant was issued.
2. If the term of the unconditional custodial sentence imposed exceeds that of the pre-trial detention already served by less than five months and no unconditional measure that entails or may entail deprivation of liberty has been imposed, with the final judgment, the warrant for pre-trial detention will be withdrawn from the date on which the term of this detention comes to equal that of the sentence, without prejudice to the provisions of Article 103.
3. For the purposes of the application of paragraphs 1 and 2 of this Article, the time spent in pre-trial detention will include the time during which the defendant was remanded in custody and the provisional release provisions of the Criminal Code will be observed.
4. If the final decision should lead to the release of the defendant, the court, by way of derogation from paragraph 1 and taking all interests into account, may decide that the warrant for the pre-trial detention will remain in effect for a maximum term of four weeks, without prejudice to the provisions of paragraphs 5 and 6.
5. If, following the final judgment referred to in paragraph 4, the public prosecutor issues a new summons and the handling at the hearing has not commenced within that four-week term, the defendant will be released immediately on the expiration of that term. If the handling at the hearing has commenced within that term, the pre-trial detention will continue in accordance with Article 98(2), including if the defendant has filed a note of objection against the new summons.
6. If an appeal is filed against the final judgment referred to in paragraph 4 and the handling at the hearing on appeal has commenced within the four-week term, the pre-trial detention will continue in accordance with Article 98(2). If that term expires before the hearing on appeal commences, or if the Public Prosecutors Office waives an appeal before the term has expired, the defendant will be released immediately.
7. If the pre-trial detention is terminated pursuant to paragraphs 1 or 2, the time of conditional release will be taken into account here and the interests of paragraph 3 of Title II of Book 1 of the Criminal Code apply likewise.

Article 106

1. Subject to the provisions of Article 105(2), warrants for pre-trial detention and orders for their withdrawal are enforceable immediately.
2. A warrant for pre-trial detention enters into force as soon as the suspect is detained with a view to enforcing that warrant or at the time when the enforcement of an earlier release order issued in the same case is terminated.

Article 107

(no text)

Article 108

1. After an appeal against the final judgment has been filed, the warrants and orders referred to in Articles 97, 98, 99, 99a(1) to 99a(4), 102, 103, 104a and 105 will be issued by the Court of Justice, with those

Articles applying likewise, except in the case of the following derogations.

2. After the final judgment in the first instance, an arrest or detention is in force for a term of no more than five months. If there are well-founded reasons why the investigation at the hearing cannot commence within the term of five months, the Court may extend this term by a maximum of 30 days.
3. An arrest warrant or detention order that is followed by the investigation at the hearing becomes valid indefinitely, as does a warrant or order issued during or after that investigation, except in the case of release pursuant to Articles 103, 105, 107 and 108(4), until that judgment becomes final, including if an appeal against the final judgment is filed in cassation or if the Supreme Court has referred the case to the Court of Justice in accordance with Article 14 of the Supreme Court Jurisdiction Act for Aruba, Curacao, Sint Maarten and of Bonaire, Sint Eustatius and Saba.
4. Apart from the cases provided for in Article 105, the Court of Justice will withdraw the order from the date on which the term of the pre-trial detention equals the term of the unconditional custodial sentence imposed unless an unconditional measure that entails or may entail deprivation of liberty is imposed.
5. For the purposes of the application of this Article, the time spent in pre-trial detention will include the time in which the defendant was remanded in custody and the conditional release provisions of the Criminal Code will be observed.

Section 8
Hearing of a suspect in pre-trial detention

Article 109

1. Unless the defendant is notified orally on the occasion of his hearing that a warrant for pre-trial detention will be issued against him, he will be heard within 24 hours of his admission to the location at which the pre-trial detention will take place.
2. The hearing shall take place during the preparatory investigation by the examining judge; after the commencement of the investigation at the hearing in the first instance by the presiding judge in the first instance; after the registration of an appeal against the final judgement by the Court of Justice or a member of that bench.
3. Records on the hearing will be drawn up on each occasion, with Articles 213 to 218 being applied likewise.

Section 9
Content of the orders and service of the orders

Article 110

1. A warrant for pre-trial detention or an order to extend the validity of that warrant shall be dated and signed.
2. It shall describe the criminal offence in such a way that the defendant can reasonably understand from this which suspicions have arisen in relation to him and the facts or circumstances showing that the conditions imposed in Article 101 have been met or, if Article 104a(1) applies, the notice on the grounds of which judgment the pre-trial detention is based.

3. The suspect will be identified in the warrant by his surname, first names and other known personal data or, if these are not known, will be identified as clearly as possible.
4. The warrant shall also state the time at which and the term for which it was issued, as well as the location at which the pre-trial detention will take place.
5. If the defendant does not master the Dutch language in which the warrant is drawn up, or does not do so adequately, he will be notified of the criminal offence of which he is suspected, and of the grounds for the execution and the term of validity of the warrant, at the earliest opportunity, in a language that he understands. The warrant will be served upon the defendant before or at the time of its execution.

Section 10
Suspension and termination of pre-trial detention

Article 111

1. Officially or in response to the claim of the Public Prosecutors Office or at the request of the defendant or his counsel, the court may order the suspension of the pre-trial detention as soon as the defendant, with or without security, declares himself willing, in a form to be determined by the court, to comply with the conditions attached to the suspension.
2. In all cases, the conditions for the suspension shall include:
    a. that the defendant, should the termination of the suspension be ordered, will not evade the enforcement of the warrant for pre-trial detention, and;
    b. that the defendant, if he is given a sentence other than a replacement custodial sentence for the offence for which the warrant is issued for the pre-trial detention, will not evade its enforcement.
3. Special conditions, as referred to in Article 1:21(2) of the Criminal Code, may be attached to the suspension, accompanied by electronic supervision or otherwise.
4. The security for compliance with the conditions consists of the deposit of funds by the defendant or a third party.
5. The court decides in its judgment the amount for which and the way in which surety must be provided.
6. The defendant will be heard at the earliest request or on the first claim.

Article 112

The court may alter the suspension decision officially, in response to the claim of the Public Prosecutors Office or at the request of the defendant. The defendant shall be heard.

Article 113

1. The court may order the termination of the suspension officially or in response to the claim of the Public Prosecutors Office at any time.
2. Before doing so, the court must hear the defendant if possible and to that end may order the subpoena of the defendant, if necessary with a warrant to bring him before the court.

Article 114

Beyond the authorisation referred to in Article 104(6), the authorisation to terminate the suspension or to change the conditions attached to the suspension accrues to the court that ordered the pre-trial detention. After

commencing action is taken for the hearing of the case in the first instance, the court in the first instance has jurisdiction in that case. After an appeal has been filed, the Court has jurisdiction.

Article 114a

1. If the termination of the suspension takes place due to a failure to comply with conditions, the security may be declared to have reverted to the Country in the decision to terminate the security.
2. The decision qualifies as a final judgment of the civil court and will be enforced as such.
3. If, following the termination of the suspension, the defendant evades the enforcement of the warrant for pre-trial detention, the security will be declared to have reverted to the Country if this has not already taken place. Even if the termination of the suspension is not ordered, the security will also be declared to have reverted to the Country if the defendant fails to comply with the condition referred to in Article 111(2)(b). The decision will be handed down officially or in response to the claim of the Public Prosecutors Office. Paragraph 2 applies.

Article 115

1. If the defendant fails to comply with the conditions or if certain circumstances reveal a risk of flight, his arrest may be ordered by the public prosecutor or an assistant public prosecutor. The latter shall notify the public prosecutor of his warrant and the arrest pursuant to that warrant without delay.
2. If the public prosecutor continues to regard the arrest made as necessary, he must immediately file his claim with the court, which will take a decision within two times 24 hours thereafter.

Article 116

Decisions on suspension, termination of suspension and to alter the decision are enforceable with immediate effect.

Article 117

1. The public prosecutor may file an appeal with the Court of Justice against decisions of the examining judge or of the court on suspension or decisions to change a decision on suspension, within three days of such decisions being handed down.
2. A defendant who has requested suspension of the pre-trial detention or a change in a suspension decision may file an appeal against a rejection of that request with the Court of Justice within three days of the service of the decision or, if the decision is taken at the hearing, within three days of it being handed down. Regardless of the nature of the decision, the defendant may appeal against a rejection of his request for suspension of the pre-trial detention on one occasion only.
3. Articles 38 to 42 apply likewise. The Court may issue a warrant to bring the defendant before the court. The Court shall hand down a decision at the earliest opportunity.
4. The Court is officially authorised to order the termination of the pre-trial detention referred to in Article 104.

Article 118

References in this paragraph to ‘suspension’ include a reference to termination.

TITLE IX
Seizure

Section 1
General provisions

Article 119

1. All objects that can serve to reveal the truth or to demonstrate illegally acquired benefits as referred to in Article 1:77 of the Criminal Code qualify for seizure.
2. All objects and claims for which seizure or withdrawal from circulation may be ordered also qualify for seizure.
3. The investigating officer shall draw up a seizure notice for the seizure of all objects, including when the authorisation to seize objects accrues to the examining judge or the public prosecutor. As far as possible, the person from whom an object is seized will be issued with a receipt. The investigating officer shall hand the notice to the assistant public prosecutor at the earliest opportunity for a decision on whether the seizure should be enforced.
4. If the seizure concerns objects in which data are stored or available, investigation relating to the contents of these may also be conducted, in observance of Article 171.

Article 119a

1. In the case of suspicions of an offence for which, according to the statutory description, a prison sentence of four or more years may be imposed, or an offence as a result of which financially valuable benefits of any significance can be acquired, objects may be seized
   a. to protect the right of recovery for a financial penalty to be imposed in relation to that offence;
   b. to protect the right of recovery for an obligation to be imposed for that offence to pay a financial sum to the Country in order to remove illegally acquired benefits, as referred to in Article 1:77 of the Criminal Code;
   c. to protect the right of recovery for a measure to be imposed for that offence as referred to in Article 1:78 of the Criminal Code.
2. Objects belonging to a party other than the person on whom a financial penalty may be imposed in the case referred to in paragraph 1, whose illegally-acquired benefits may be withdrawn or on whom the measure referred to in Article 1:78 of the Criminal Code may be imposed, may be seized if there are sufficient indications that part or all of these objects came into the possession of that other party with the apparent aim of impeding or preventing the recovery of the objects, and the other party knew this or could reasonably have been expected to have suspected it.
3. In the case referred to in paragraph 2, other objects belonging to the person concerned may also be seized, up to the value of the objects referred to in that paragraph.

Article 119b

The following applies for the application of Article 119 and Article 119a:

a. seizure of receivables will be imposed and terminated through written notification of the debtor;

b. seizure of bearer rights or rights of order will take place through seizure of the documents;
c. in the seizure of shares and registered securities and in the seizure and termination of the seizure of real estate, the intermediary of a bailiff will be enlisted and formalities will be observed that apply pursuant to the Code of Civil Procedure with regard to notifications or announcements of seizures or the service of seizure statements, records, registrations or deletions from registers and their service on third parties;
d. in the seizure or termination of the seizure of vessels and aircraft, formalities applying pursuant to the Code of Civil Procedure must be observed in relation to the service of the seizure statement and pursuant to any regulation concerning recorded vessels or aircraft relating to their registration in and deletion from the registers.

Article 119c

Title IV of Book 3 of the Code of Civil Procedure applies likewise to the seizure referred to in Article 119a, with the exception of the following:
a. the leave of the court is not required for the seizure nor need any fears of fraud exist;
b. a maximum sum for which the right of recovery will be exercised, which must be recorded in the seizure statement or the bailiff's notification of the seizure;
c. regulations concerning terms within which the claim in the main proceedings must be instituted after the seizure do not apply likewise;
d. for moveable goods that are nor registered property and for bearer rights or order rights, the preparation of a seizure record by an investigating officer and the provision of proof of receipt to the party from whom the objects were seized will suffice;
e. failure to observe terms within which the notice of the seizure must be served in cases other than those referred to Article 119b(c) do not entail the nullity of the seizure;
f. Article 721 of the Code of Civil Procedure does not apply likewise. If the hearing of the primary proceedings becomes pending after the seizure, the public prosecutor notifies the third party of this in writing at the earliest opportunity;
g. Article 722 of the Code of Civil Procedure does not apply likewise;
h. Articles 141 to 143 apply to seized moveable goods that are taken into custody;
i. the termination of the seizure takes place in observance of the provisions of this Code.

Article 119d

1. In order to protect the right of recover, the public prosecutor, on behalf of the Country, may exercise the powers assigned in the Civil Code and in the Code of Civil Procedure to a debtor whose recovery possibilities are adversely affected as a result of a legal action performed by the debtor without obligation. Article 119c(c) and 119c(e) apply likewise.
2. For the application of Articles 46 and 47 of Book 3 of the Civil Code, a suspicion of knowledge, as referred to in those Articles, applies for legal actions performed by the suspect or convict within one year prior to the date on which circumstances arose showing that he was aware of the criminal investigation against him.
3. In order to protect the right of recovery, the public prosecutor is also authorised to represent the Country as a creditor in bankruptcy proceedings against the defendant or convict. As long as the amount of

the penalty or of the illegally acquired benefits to be withdrawn has yet to be established, he is deemed to be representing a conditional claim.
4. The public prosecutor retains the powers referred to in paragraphs 1 and 2, despite bankruptcy, in as far as the objects to which the non-mandatory legal actions relate have not been claimed by the trustee in bankruptcy on the grounds of bankruptcy law.

Section 2
Seizure by investigating officers or special persons

Article 120

1. A person who arrests a suspect or stops him to require proof of identity may seize objects that qualify for seizure that the suspect carries with him.
2. The provisions of Article 78 apply with regard to the search of the body or clothing of an arrested suspect.

Article 121

1. Investigating officers may confiscate objects subject to seizure at any time and to that end, may enter any location, if necessary, in the event that offenders are caught in the act.
2. Pending the arrival of the judge or of the official authorised to search the location for the purpose of seizure, the investigating officer may take the measures that are reasonably necessary to prevent removal of or damage to objects subject to seizure, or to prevent actions that will make such objects unusable. These measures may restrict the freedom of persons present at the location.
3. Articles 155 to 164 apply.

Article 121a

1. In the event of the suspicion of a criminal offence for which pre-trial detention is permitted, the investigating officer may order a person who must reasonably be suspected of being the holder of an object subject to seizure to hand over the objects for seizure, within the terms and in the manner to be determined in the order.
2. The order is issued in writing and is not given to the defendant. An oral order that is set down in writing within three days is equated with a written order.
3. On the basis of their rights of privilege, the following persons are not required to comply with the order:
   a. the persons referred to in Article 251;
   b. the persons referred to in Article 252, in as far as the handover would conflict with their confidentiality obligations;
   c. the persons referred to in Article 252a, unless the examining judge finds that failure to comply with the order would cause disproportionate harm to a more important social interest.
   d. the persons referred to in Article 253, in as far as the handover would expose them or one of their interests named in the order to the risk of criminal prosecution.
4. The order can only be issued with regard to letters if these originate from the defendant, are intended for or relate to the defendant or if they constitute the object of the criminal offence or served for its perpetration.

5. Paragraph 1 does not apply to packages, letters, documents and other messages entrusted to postal services, telegraphic services or another institution for dispatch.

Article 121b

1. If perpetrators of a criminal offence are caught in the act or in the event of a suspicion of an offence for which pre-trial detention is permitted, the investigating officer is also authorised to search means of transport for the purpose of seizure, with the exception of the accommodation areas, without the consent of the occupant and to enter that means of transport for that purpose.
2. If this is necessary with a view to exercising the authorisation granted in paragraph 1, the investigating officer may require the driver of the vehicle:
   a. to stop the vehicle and;
   b. to then transfer the vehicle to a location designated by the investigating officer.

Article 121c

1. If the perpetrators of a criminal offence are caught in the act or in the event of the suspicion of an offence for which pre-trial detention is permitted, the public prosecutor may search every location for the purpose of seizure, with the exception of a residential property, without the consent of the occupant and may search offices of a person with rights of privilege, as referred to in Articles 252 and 252a.
2. In a case of urgent need and if it is not possible to await the action of the public prosecutor, the authorisation accrues to an assistant public prosecutor, subject to the obligation to notify the public prosecutor of the action undertaken without delay.
3. Articles 121(2) and 164 apply likewise.

Article 122

1. In the event that the perpetrator of an offence for which pre-trial detention is permitted is caught in the act, the public prosecutor may, in the event of urgent necessity and if it is not possible to await the action of the examining judge, may search the following locations for the purpose of seizure and may seize the objects qualifying for seizure there:
   a. a residential property without the consent of the occupant, and;
   b. an office of a person with rights of privilege, as referred to in Articles 252 and 252a.
2. For a search as referred to in paragraph 1, the public prosecutor requires the prior written authorisation of the examining judge. An oral authorisation that is recorded within three days is deemed to be equivalent to a written authorisation. The reasons for the authorisation are stated. In that case, the public prosecutor is authorised to enter the premises.
3. If it is also not possible to await the action of the public prosecutor, the authorisation accrues to an assistant public prosecutor. Paragraphs 1 and 2 apply likewise. If possible, the authorisation of the examining judge will be requested through the intermediary of the public prosecutor.
4. If the examining judge has authorised an assistant public prosecutor to search a residential property, as referred to in paragraph 1, for the purpose of seizure without the consent of the occupant, no

authorisation as referred to in Article 155(1) is required for entry by the assistant public prosecutor concerned.
5. Article 121(2) and Articles 155 to 164 apply.

Article 122a
On the occasion of a search for objects subject to seizure, the public prosecutor or the assistant public prosecutor may seize such objects, in as far as these are in evidence.

Article 123
(no text)

Article 124
The investigating officers have free access at all times to all localities and all places which can reasonably be suspected of being used by a gold or silversmith, treasurer, watchmaker, trader or repairer of vehicles or parts of these, garage owner, second-hand retailer, second-hand retailer or retailer of shipping and water sports articles. Article 1:219 of the Criminal Code and Articles 155 to 164 of this Code apply.

Article 125
1. Letters or other documents which are covered by the confidentiality obligations of persons with rights of privilege, as referred to in Article 252, will not be seized from such persons without their consent.
2. Searches of properties occupied by such persons will take place without their consent only in as far as they can take place without violation of their obligations on the grounds of professional, official or status privilege and shall not extend to letters or other documents that do not constitute the subject of the criminal offence and did not serve for its perpetration.
3. For persons with rights of privilege, as referred to in Article 252a, the documents referred to in paragraph 1 will not be seized unless the examining judge finds that the waiver of such seizure would cause disproportionate harm to a social interest that outweighs this.
4. The examining judge who rules that seizure is permitted will notify the person with rights of privilege that a complaint may be filed against his decision with the Court of First Instance and also that access will not be granted until a final decision on the complaint has been handed down.
5. A person with rights of privilege may submit a complaint against the decision of the examining judge to the Court of First Instance within 14 days of that decision being served. Section 7 of this Title applies. In that case, the Court will hand down a decision within 30 days of the receipt of the complaint.

Article 126
1. Unless urgently required in the interests of the investigation, seizure will not take place from a residential property until the occupant, or in his absence, a member of his household who is present has been heard and has been invited without success to hand over the objects voluntarily for seizure.
2. In as far as this is not counter to the interests of the investigation, the investigating officer will grant the occupant or, in his absence, a member of his household who is present an opportunity to make a statement concerning the objects found at the location that qualify for seizure. The same applies with regard to the defendant, if present.

3. During a search, the defendant is authorised to provide for the support of his counsel without this being permitted to delay the search.

Article 127

1. If a perpetrator of an offence for which pre-trial detention is permitted is caught in the act, the public prosecutor may order the handover of the packages, letters, documents and other messages entrusted to the postal services, telegraphy services or other institutions for dispatch, for receipt, in as far as they clearly originate from the suspect, are intended for him or relate to him or if they clearly constitute the object of the criminal offence or served for its perpetration.
2. Every person who possesses or receives such goods for the purpose of dispatch shall provide the public prosecutor or the assistant officer with the information that they require in that regard on demand. Articles 251 to 253 apply likewise.

Article 128

1. The public prosecutor will immediately return seized items of mail, such as packages, letters and other items and messages that were entrusted to the postal services, telegraphy services or other institutions for dispatch, for the purpose of dispatch if their seizure will not be enforced.
2. The public prosecutor will not view the contents of the other items of mail, if sealed, until he is authorised to do so by the examining judge. If such authorisation is not granted, the public prosecutor will return the seized items of mail to the transporter for dispatch without delay.

Article 129

1. If, after being opened, the items of mail prove to be of importance for the investigation, the public prosecutor will add these to the case documents or to the documentary evidence. In the opposite case, after being closed by the public prosecutor, these items of mail will be sent to their destination without delay.
2. In as far as this is not prohibited by the interests of the investigation, they shall be certified in advance by the assistant public prosecutor.
3. The public prosecutor shall protect the confidentiality of the contents of the items of mail that he opens, in as far as these are not added to the case documents or the documentary evidence. The public prosecutor and the assistant public prosecutor shall observe the same confidentiality obligations in relation to the information referred to in Article 127(2), in as far as this is not revealed by the case documents.
4. The public prosecutor shall draw up a record of the seizure, the return, the opening and the dispatch, which will be added to the case documents.

Article 129a

1. The assistant public prosecutor or the investigating officer shall make seized and closed documents available to the public prosecutor without delay.
2. The public prosecutor shall return closed letters for which the seizure will not be enforced to the party from which they were seized, without delay.
3. Articles 128(2) and 129 apply likewise, with the proviso that the letters that are not added to the case documents or the documentary evidence will be returned to the party from which they were seized.

Section 2A
Seizure pursuant to Article 119a

Article 129b

1. Seizure on the grounds of Article 119a may take place or be enforced only pursuant to a written authorisation issued by the examining judge in response to the claim of the public prosecutor.
2. The public prosecutor will notify the defendant or the convict, and if the seizure took place from a third party, also that third party of the authorisation at the earliest opportunity.
3. If the perpetrator of the offence is caught in the act, seizure pursuant to Article 119a may also take place on the claim of the public prosecutor, pursuant to an oral authorisation of the examining judge. The investigating officer shall draw up a record of the seizure. The defendant or convict will be issued with a receipt. If the seizure took place from a third party, that party will also be issued with a receipt. The examining judge shall record an authorisation issued in writing after the event, within three days. Paragraph 2 applies likewise.
4. The provisions of paragraph 3 do not apply with regard to objects as referred to in Article 119b.

Section 3
Seizure by the examining judge

Article 130

1. The examining judge is authorised to seize all objects that qualify for that purpose. Where the examining judge does not conduct investigative actions pursuant to or in accordance with Articles 221 to 223, seizure by the examining judge shall take place only on the claim of the public prosecutor.
2. Article 125(1) applies.

Article 131

1. In response to the claim of the public prosecutor and if he performs investigative actions pursuant to Articles 221 to 223, also officially, the examining judge may order that a person who must reasonably be suspected of holding any particular object that qualifies for seizure hand over that object to him for seizure or transfer it to the registry of the Court of First Instance, within the term and in the manner to be provided in the order.
2. Article 121a(2) to 121a(4) applies.

Article 132

(no text)

Article 133

(no text)

Article 134

1. At the request of the interested party, the examining judge may order that the interested party be given certified copies of the letters or documents issued or transferred, free of charge.

2. In the case of an authenticated document held by a public custodian, the copy may be provided instead of the original document, as long as this is not returned.

Article 135
If the documents to be issued or transferred form part of a register from which they cannot be separated, the examining judge may order that the register be transferred for viewing for a period to be determined in the order, or be delivered to the interested party in order to make copies of part or all of this.

Article 136
(no text)

Article 137
1. The examining judge, on the claim of the public prosecutor and, if he performs investigative actions pursuant to Articles 221 to 223, also officially, is authorised to search every location for the purpose of seizure and to enter the locations to be searched.
2. Article 121(2) applies likewise.

Article 138
1. A search as referred to in Article 137 shall be conducted by or under the management of the examining judge, in the presence of the public prosecutor as far as possible. They may provide to be accompanied in this by certain officers that they appoint.
2. Article 126 applies.

Article 139
1. If strictly necessary for the purpose of the investigation, the search may extend to the seizure of all objects that qualify for this.
2. Article 125(1) applies.

Article 140
1. Articles 127 to 129 apply likewise to an examining judge who performs investigative actions pursuant to Articles 221 to 223; the relevant actions of the public prosecutor, as referred to in Articles 128 and 129, shall be taken over and continued by the examining judge at the earliest opportunity.
2. The examining judge is authorised to order that the content of seized closed packages, letters, documents and other messages that were entrusted to the postal service, telegraphy or another transportation institution be viewed, in as far as they are clearly intended for the defendant or originate from him or relate to him or if they clearly constitute the subject of the criminal offence or served for its perpetration. In cases in which he does not perform investigative actions pursuant to Articles 221 to 223, this order of the examining judge may be issued only on the claim of the public prosecutor.

Section 4
Custody of seized objects

Article 141
1. As far as possible, seized objects are locked and sealed in a cover, containing a signed statement of the date of the seizure and the name

of the party from which they were seized, with a brief description of the contents. If the objects are not regarded as suitable for sealing in a cover, a strip is attached to them with the same details, a brief designation of the object and a signature. If this is not possible, the objects are certified as far as possible.
2. As soon as the interests of the investigation permit, the seized objects for which custody is deemed to be necessary shall be placed in the care of a custodian designated by national decree containing general measures.
3. The seized objects may also be given to another custodian by the Public Prosecutors Office for safekeeping in judicial custody if this is reasonably necessary for the custody, purpose or security of these objects.

Article 142

1. The objects are not sold, destroyed, released or used for any purpose other than the investigation without authorisation.
2. If the objects are not suitable for storage, or if this is deemed to be highly undesirable, the authorisation may be provided by the Public Prosecutors Office to the custodian or to the official who holds the objects pending their shipment to the custodian.
3. If the objects are not suitable for storage for longer periods, or if this is regarded as highly undesirable, the Court of First Instance may grant the authorisation to the custodian in response to the claim of the Public Prosecutors Office.
4. In as far as the return of objects, within the meaning of Article 144 is possible, this Article does not apply unless the holder of the rights has abandoned them.
5. Cash and cash equivalents are deposited in the Consignation Office or in an account of the Country for that purpose.

Article 143

Rules concerning the manner in which seized objects are stored and kept available for the investigation or are sold, destroyed, surrendered or used for a purpose other than the investigation pursuant to Article 142 will be imposed by national decree containing general measures.

Section 5
Return of seized objects

Article 144

1. As soon as the return of a seized object is no longer counter to the interests of the criminal proceedings, the Public Prosecutors Office will return this to the party from which it was removed due to the criminal offence. If this party is not known, the object will be returned to the person from which it was seized unless that person took possession of the object unlawfully. In the latter case the object will be returned to the person to whom the return of the object is reasonable at first sight and is not socially irresponsible. If this person is not known, the object will be handled in accordance with Article 142.
2. An obligation to return the object does not exist in relation to objects which the right-holder has surrendered in writing. Authorisation as referred to in Article 142(2) will be awarded with regard to these objects, even if they are suitable for storage; in other respects, they will be treated as seized objects.

Article 145

1. An order to return a seized object kept in custody is directed at the custodian.
2. If the custodian is unable to comply with the order because the object has been lawfully sold, destroyed, released or used for a purpose other than that of the investigation, with the authorisation of the Court of First Instance for that purpose, as referred to in Article 142(3), he shall pay out the price that he could reasonably have been expected to raise with the sale of the object.
3. If the custodian, other than in the cases referred to in paragraph 2, is unable to comply with the order to return the objects or if it did not prove possible to issue such an order, he shall keep the object available for the right-holder until six months have passed since the issue of the order to return the objects or three years have passed since their seizure. If it is then still not possible to return the objects, they shall be treated as confiscated objects.
4. The custodian will not return the object as long as they are under garnishment by a third party pursuant to the Code of Civil Procedure.

Article 145a

At the request of the party from whom the objects were seized or one of the other interested parties, the Public Prosecutors Office can provide for the return of an object seized pursuant to Article 119a, with the provision of security. The security consists of the deposit of funds by the debtor or a third party, in such an amount and in such a manner as is accepted by the Public Prosecutors Office.

Section 6

(no text)

Section 7
Complaint against seizure

Article 150

1. The interested parties may object in writing to seizure, the use of seized objects, the absence of an order to return seized objects, the return to a particular person, a claim for data, an order to grant access to an automated device or parts thereof, a data carrier or encrypted data or knowledge concerning their security, access to or use of data recorded during a search or provided on claim, access to or use of data as referred to in Articles 127, 128 and 140, making data found in an automated device inaccessible, as referred to in Article 172, the withdrawal of the relevant measures or the absence of an order for such withdrawal. The interested parties may also file a written complaint regarding an order to make data inaccessible, as referred to in Article 172a. The Court of First Instance will hand down a decision on the complaint referred to in the previous sentence at the earliest opportunity.
2. The interested parties may file a written request for the destruction of data recorded during a search or provided on demand.
3. The complaint or request must be submitted to the registry of the Court of First Instance at the earliest opportunity. The complaint or request will be inadmissible if it is submitted more than three months after the case has been closed.

4. If prosecution has not been or has not yet been instituted, the complaint or request will be submitted at the earliest opportunity and no later than three years after the seizure or access to the data or after the data has been made inaccessible according to the order referred to in Articles 169 and 172a. The Court is authorised to settle the matter unless the court proceedings began before the handling of the complaint or request could commence. In that case, the presiding judge is authorised.
5. If the Court finds the complaint or request to be well-founded, it will issue the appropriate order. If the complaint is filed against an order as referred to in the second sentence of paragraph 1, the Court may withdraw part or all of the order.

Article 150a

1. The interested parties, other than the defendant, former defendant or convict, may file a written complaint against the imposition of conditions, as referred to in Article 1:149(2)(b), 1:149(2)(c) or 1:149(2)(d) of the Criminal Code and against a settlement, as referred to in Article 500 on the grounds that these relate to objects accruing to them and the public prosecutor who imposed the conditions or entered into the settlement proved unwilling to return the objects or to reimburse the value that he could reasonably have been expected to raise through the sale of the objects.
2. The written complaint will be filed with the Court registry no more than three months after the defendant, former defendant or convict has complied with the conditions set or the terms of the settlement or the complainant became aware of this.
3. If the Court finds the complaint to be well-founded, it will declare the conditions or the settlement referred to in paragraph 1 to have lapsed.

Article 151

1. The interested parties, other than the defendant or convict, may file a written complaint regarding the seizure of objects accruing to them or regarding the withdrawal of such objects from circulation. No complaint may be filed if the amount estimated for the seized objects in the judgment has been paid or collected or if a replacement custodial sentence has been imposed.
2. Within three months of the decision becoming enforceable, the complaint must be filed with the registry of the Court of First Instance, which Court is then competent to issue a decision on the complaint.
3. If the Court finds the complaint to be well-founded, it will revoke the seizure or the withdrawal from circulation and issue an order as referred to in Article 397.
4. On the revocation of a seizure, the Court may declare the objects withdrawn from circulation if they qualify for this.
5. Articles 1:69, 1:70 and the last phrase of Article 1:72(2) of the Criminal Code apply likewise.

Article 152

As soon as the Public Prosecutors Office finds that a seized object belongs to a person other than the injured party, it shall notify that person, if his address is known, of his powers pursuant to Articles 150, 150a and 151.

Article 152a

1. The Court shall hear the complaint or request filed on the grounds of any decision in this Section in open court. The provisions of Title VI of Book 1 apply likewise.
2. On the orders of the Court, the registry will also notify other interested parties of the complaint or the request, offering them an opportunity to either submit a written complaint or request themselves within the term set for this in the notice, relating to the same object or the same data, or to be heard during the handling of the complaint or the request. In the latter case, the notice serves as a summons.
3. The complainant, applicant or other interested parties may provide for the support of lawyer or a person authorised for that purpose by a special power of attorney, who will be given an opportunity to make the necessary comments.
4. The interested parties who appear for the hearing will be notified of the date on which the decision will be handed down.
5. The Public Prosecutors Office may file an appeal within 14 days of the date on which the decision is handed down and the complainant or applicant may do so within 14 days of the decision being served upon them.
6. If the complaint is filed by a person with rights of privilege, as referred to in Articles 252 and 252a, the Court will hand down a decision within 90 days of the filing of the complaint.

Article 153
1. Article 145 applies likewise to an order issued pursuant to this Section in relation to an object.
2. Compliance with an order to return an object that was seized or withdrawn from circulation with the provision of financial compensation will not take place until the amount has been deposited in the national treasury.

Article 154
As long as the possibility of the revocation of the punishment or measure exists, what is held by the Country as objects that have been seized or withdrawn from circulation will be handled in accordance with 141 to 143.

Article 154a
The civil courts are competent to hear disputes concerning the application by the Public Prosecutors Office of its powers pursuant to Article 119d.

TITLE X
Entry of residential properties

Article 155
1. Without prejudice to the provisions of paragraph 4, a special written warrant is required for entry to a residential property without the explicit consent of the occupant. The court and the public prosecutor, who is authorised to enter the property without the consent of the occupant, are exempt from the requirement of a warrant.
2. The model warrant may be established by a national decree containing general measures.
3. The warrant will be shown to the occupant prior to the entry if possible and otherwise at the earliest opportunity thereafter. A copy of the warrant will be handed to the occupant or left behind for him.

4. A warrant as referred to in paragraph 1 is not required if immediate entry to the residential property is necessary for the prevention or control of serious and immediate danger to the safety of persons or property.

Article 156

1. Only the Attorney-General, the public prosecutor and the assistant public prosecutor are authorised to issue a special written warrant. If the assistant public prosecutor himself requires a warrant, this is issued by the public prosecutor.
2. The warrant may only be issued to persons who are authorised by or pursuant to this Code to enter a residential property without the explicit consent of the occupant.

Article 157

1. The warrant is issued for entry to a particular residential property to be designated in the warrant.
2. For the detection of criminal offences for which pre-trial detention is permitted, a warrant may be issued in relation to a larger number of residential properties that are not specifically designated in the warrant. In that case, the offences in connection with which entry will take place and the time for which the warrant applies will be stated accurately in the warrant.
3. For the purpose of the arrest, bringing a detainee before the court or of taking the person designated in the warrant into custody, a warrant may be issued that applies for every residential property at which the person is located or can reasonably be assumed to be located.

Article 158

1. The warrant describes the objectives of the entry and, as far as possible, the grounds for the suspicion.
2. The warrant must be dated and signed. It remains in force up to the third day after it is issued.

Article 159

1. Between midnight and 6.00 a.m., entry without the explicit consent of the occupant is possible only in as far as this is urgently necessary and, if entry takes place pursuant to a warrant, the warrant explicitly provides for this.
2. In the absence of the occupant, entry is permitted only in as far as this is urgently necessary and, if entry takes place pursuant to a warrant, the warrant explicitly provides for this.

Article 160

1. The Attorney-General or the public prosecutor or assistant public prosecutor who issued the warrant may accompany the person who is authorised to enter the property.
2. A person who is authorised to enter a residential property without the explicit consent of the occupant may be accompanied by other persons, in as far as this is reasonably required for the purpose of the entry and, if entry takes place pursuant to a warrant, the warrant explicitly provides for this.

Article 161

A person who is authorised to enter a residential property without the explicit consent of the occupant may gain entry to or through the residential property, in as far as this is reasonably required for the purpose of the entry. If necessary, he may use force for that purpose.

Article 162

1. Without prejudice to the provisions of this Title regarding the warrant, a person who enters a residential property undertakes to identify himself to the occupant in advance and to notify him of the purpose of the entry. If two or more persons enter a residential property for the same purpose, these obligations are borne only by the person who leads the entry.
2. If compliance with the obligations referred to in paragraph 1 can reasonably be expected to give rise to serious and immediate danger to the safety of persons or property, or if this is impossible in practice or can reasonably be expected to harm the prosecution of offences for which pre-trial detention is permitted, these obligations apply only in as far as compliance with these can be required in the circumstances concerned.
3. The person who identifies himself pursuant to paragraph 2 shows a valid identity document. The identity document contains a photograph of the holder and states his name and capacity. If the safety of the holder of the identity document requires his identity to remain undisclosed, his number may be stated instead of his name.
4. The person referred to in paragraph 1 who wishes to enter a residential property with the consent of the owner requests his consent prior to the entry. The consent must be made clear to the person wishing to enter and is recorded in writing in the statement drawn up in relation to the entry.

Article 163

1. A person who has entered a residential property without the explicit consent of the occupant draws up a written report on the entry under his official oath or pledge.
2. In the report, he states:
   a. his name and capacity;
   b. the date of the warrant and the name and capacity of the party that issued the entry warrant;
   c. the statutory provisions on which the entry is based and the purpose of the entry;
   d. the location of the residential property and the name of the occupant;
   e. the method of entry and the time at which the residential property is entered and at which it is exited;
   f. what was performed in the residential property or otherwise occurred, the number and capacity of the persons who accompanied him, the names of the persons who were deprived of their liberty in the residential property and the objects that were seized in the residential property;
   g. where applicable: the reasons why and how the provisions of Article 155(4) or Article 162(2) were applied.
3. The report will be sent to the public prosecutor within two times 24 hours after the residential property has been entered.
4. A copy of the report will be issued or sent to the occupant within the same term. If it is not possible to issue or sent this copy, the person to

whom the report is addressed or the person who exercised his authority to enter the property without a warrant will keep the copy available for the occupant for a term of six months.

TITLE XI
Entry of some special locations

Article 164

In cases in which entry to locations is permitted pursuant to this Code, unless the perpetrator of the offence is caught in the act, this will not take place:

a. in the meeting rooms of the Parliament or of one of the Island Councils during a meeting;
b. in the rooms intended for religious services or contemplative gatherings of an ideological nature, during the religious service or contemplative gathering;
c. in the rooms in which court hearings are conducted, during the hearing.

TITLE XII
Enforcement of the order on the occasion of official actions

Article 165

1. The head of the bench, the presiding judge or the officer responsible for supervising the actions provides for the enforcement of order on the occasion of official actions.
2. He is authorised to take the measures required in the interests of the investigation or the security of persons.
3. If a person disturbs the peace in that case or is obstructive in any way, the head of the bench, judge or officer concerned, after issuing a warning if necessary, may order him to leave and in the case of his refusal to do so, have him removed and detained until after the completion of the official actions.
4. A record of the foregoing will be drawn up and added to the case documents.

TITLE XIII
Measures on the occasion of an inspection or a search

Article 166

1. In the event of an inspection or search of locations, the judge or officer responsible for this may take the necessary security or closure measures and order that, without his explicit consent, no-one may leave the place of the inspection or search until the inspection there is completed.
2. Articles 165(3) and 165(4) apply likewise.

TITLE XIV
Search for the purpose of recording data and investigation of an automated device and investigation of an object in which data are stored or available

Article 167
Under the same conditions as referred to in Articles 121b, 121c, 122 and 137, the examining judge, the public prosecutor, the assistant public prosecutor and the investigating officer are authorised to search a location to record data stored or recorded on a data carrier at that location. They may record these data in the interests of the investigation. Articles 125 and 126 apply likewise.

Article 168
1. In the case of a search, an investigation may be conducted from the location at which the search takes place of an automated device located elsewhere, concerning data stored in that device which is reasonably necessary in order to reveal the truth. If such data are found, they may be recorded.
2. The investigation will not extend beyond the extent to which persons who normally work or reside at the location where the search takes place have access to the automated device from that location, with the consent of the right-holder.

Article 168a
Article 177kb applies likewise.

Article 169
1. In as far as this is specifically required in the interests of the investigation and if Article 167, Article 168 or Article 177ta are applied, a person who can reasonably be assumed to have knowledge of the method of securing an automated device may be ordered to grant access to the automated devices present or parts of these. The person at whom the order is directed must comply with this on request by making his knowledge concerning the security available.
2. Paragraph 1 applies likewise if encrypted data are found in an automated device. The order is directed at the person who can reasonably be assumed to have knowledge of the manner in which these data are encrypted.
3. An order, as referred to in paragraph 1 or 2, will be issued in writing and is not directed at the suspect or a person with rights of privilege. An oral order that is set down in writing within three days is equated with a written order.
4. In the interests of the investigation, a person to whom an order, as referred to in paragraph 1, is directed will protect the confidentiality of all that he knows in relation to the order.

Article 170
Data entered by or on behalf of persons with rights of privilege, as referred to in Article 252, will not be investigated in as far as these are covered by their confidentiality obligations unless they grant permission for this. An investigation of an automated device in which such data are stored will take place only with their consent or in as far as this can be conducted without violation of their rights of privilege on the grounds of their profession, official capacity or status. With regard to persons with rights of privilege, as referred to in Article 252a, the investigation may take place only if the examining judge finds that failure to conduct the investigation would cause disproportionate harm to a social interest that outweighs this.

Article 171

1. If this involves a more than minor invasion of personal privacy, viewing of the content of an object on which data are stored or available will not take place without the issue of prior authorisation for that purpose by the examining judge. A 'more than minor invasion' in any event includes viewing data as referred to in the second sentence of Article 177s(2).
2. The public prosecutor will claim the authorisation of the examining judge.
3. The claim or authorisation will be recorded or issued in writing, respectively. An oral claim or authorisation that, on pain of nullity, is recorded in writing without delay, within three days, is equated with a written claim or authorisation.
4. If the authorisation is refused, the public prosecutor will order the destruction of the recorded data.

Article 172

1. If in a search, as referred to in the Articles 167 and 168, or with the application of Article 177ta, data are found in an automated device in relation to which, or which the aid of which the criminal offence was committed, the public prosecutor or the examining judge, if the latter conducts the search, may decide that those data will be made inaccessible, in as far as this is necessary to end the criminal offence or to prevent new criminal offences.
2. 'Making data inaccessible' refers to taking measures to prevent further access to or use of those data by the operator of the automated device referred to in paragraph 1 or third parties, as well as to prevent further dissemination of those data. 'Making data inaccessible' also refers to the deletion of the data from the automated device while retaining the data for the purpose of the criminal proceedings.
3. As soon as withdrawal of the measures referred to in paragraph 2 is no longer counter to the interests of the criminal proceedings, the public prosecutor or the examining judge, if the latter conducts the search, may decide that those data will be made accessible again to the operator of the automated device.
4. In a separate court decision, on the claim of the public prosecutor, the destruction of the data that has been made inaccessible may be ordered if these are data relating to which or with the aid of which a criminal offence was committed, in as far as the destruction is necessary in order to prevent new criminal offences.
5. A copy of the claim will be served upon the manager of the automated device on which the data are or were stored.
6. Article 554a applies likewise
7. If the Court of First Instance rejects the claim, it will order that the data be made accessible again to the operator of the automated device.

Article 172a

1. In the event of a suspicion of a criminal offence, the public prosecutor, with the authorisation granted by the examining judge, may order a provider of a communication service to immediately take all measure that can reasonably be required of him to make certain data that are saved or transferred inaccessible, in as far as this is necessary to end a criminal offence or to prevent new criminal offences. The public prosecutor shall grant the provider against whom the order is directed an opportunity to be heard. The provider has the right to the support of a lawyer during the hearing.

2. The order referred to in paragraph 1 is issued in writing and states:
   a. the criminal offence and, if this is necessary for the execution of the order, the name of the defendant or otherwise, the most accurate identification possible of the suspect;
   b. the facts and circumstances showing that it is necessary to make the data inaccessible in order to end the criminal offence or to prevent new criminal offences;
   c. which data must be made inaccessible.
3. The first sentence of Article 172(2) applies likewise.

Article 173
If the search, as referred to in Articles 167 and 168 leads to recording of data or making data inaccessible, the investigating officer will draw up a notice of seizure or of making data inaccessible. As far as possible, the person responsible for the data and the right-holder of the location where a search, as referred to in Articles 167 and 168, has been conducted will be notified in writing of the recording or of making the data inaccessible and of the nature of the recorded data or data that is made inaccessible.

Article 174
Articles 177kb to 177kd apply likewise as soon as it is clear that the data that were recorded during a search are of no significance for the investigation..

TITLE XV
Detention for observation

Article 175
If it is necessary to conduct an examination of the mental capacity of a defendant who is held in pre-trial detention, and this cannot take place adequately in any other way, the examining judge, either officially or on the claim of the public prosecutor or at the request of the defendant or his counsel will order that the defendant be transferred to an institution to be designated in the order for observation.

Article 176
1. The order referred to in Article 175 states the reasons and is not issued until the view of an expert has been obtained and the defendant and his counsel have been given an opportunity to be heard on the matter. The examining judge invites the public prosecutor to attend the hearing.
2. The order on the transfer and an order rejecting a request from the defendant to that effect will be served without delay.
3. The defendant may file an appeal against these orders with the Court of Justice within three days of their being served.
4. Before taking a decision, the Court, including in the case of an appeal by the public prosecutor, may order the examining judge to institute a further inquiry and to submit the relevant documents for that purpose.

Article 177
1. The stay in the institution qualifies as pre-trial detention, may not exceed a term of eight weeks and ends as soon as the defendant must be released.

2. Either officially, or on the claim of the Public Prosecutors Office or at the request of the defendant or his counsel, the examining judge may order an end to the stay in the institution at any time.
3. Either officially, on the claim of the Public Prosecutors Office or at the request of the defendant, the examining judge may renew the order referred to in Article 175 on one occasion only, by a maximum of eight weeks.
4. Article 176 applies likewise to the renewal order in accordance with the preceding paragraph, with the proviso that the view of one of more experts need not be heard.

TITLE XVI
Criminal financial investigation

Article 177a

1. In the event of suspicion of a criminal offence for which, according to the statutory description, a prison sentence of four or more years is imposed or an offence as a result of which valuable benefits of any significance can be obtained, a criminal financial investigation may be instituted in accordance with the provisions of this Title.
2. A criminal financial investigation is aimed at determining the benefits unlawfully acquired by the suspect with a view to removing these pursuant to Article 1:77 of the Criminal Code.
3. The criminal financial investigation is instituted pursuant to an authorisation of the examining judge, stating the reasons, granted in response to a claim of the public prosecutor responsible for detection of the offence.
4. The public prosecutor must state the reasons for the claim. A list of objects that have already been seized pursuant to Article 119a(1)(b), 119a(2) and 119a(3) must be submitted with the claim.
5. The public prosecutor regularly informs the examining judge, on request or at his own initiative, of the progress of the criminal financial investigation.

Article 177b

1. Pursuant to the authorisation granted on the grounds of Article 177a, an investigating officer charged with the criminal financial investigation is authorised, on presentation of a copy of the authorisation, in order to gain an insight into the equity of the person against whom the investigation is directed, to order anyone, on his earliest demand:
   a. to report or grant access to or provide a copy of documents or data, not being data as referred to in the second sentence of Article 177s(2);
   b. to state whether and if so, which asset elements he possesses or has possessed that belong or have belonged to the person against whom the investigation is directed, and to seize written documents provided in that manner.
2. The order will be issued in writing and will not be given to the party against whom the investigation is directed. An oral order that is set down in writing within three days is equated with a written order.
3. Article 121a(3) applies likewise.
4. On the occasion of the first examination of the person against whom the investigation is directed, the examining judge or officer will hand him a copy of the claim and authorisation referred to in Article 177a.

5. In the interests of the investigation, the party against whom the claim referred to in paragraph 1 is directed shall protect the confidentiality of all that he knows in relation to the claim.

Article 177c

1. During the criminal financial investigation, the public prosecutor is authorised to order the seizure of objects pursuant to Article 119a(1)(b) with no further warrant from the examining judge.
2. If the public prosecutor regards this as necessary in the interests of the financial criminal investigation, he may search any location with the exception of a residential property without the consent of the occupant or an office of a person with rights of privilege, as referred to in Articles 252 and 252a.
3. During the criminal financial investigation, the examining judge holds all powers accruing to him pursuant to this Code, with the proviso that:
   a. in observance of Article 131, he is also authorised to order the handover, for the purpose of seizure, of letters that could serve to demonstrate the acquisition of unlawful benefits by the person against whom the investigation is directed;
   b. he is not obliged to permit either the person against whom the investigation is directed or his counsel to attend any investigative actions that he will perform.

Article 177d

1. In the event of an urgent necessity for seizure, the public prosecutor may search any location, including a residential property without the consent of the occupant or an office of a person with rights of privilege, as referred to in Articles 252 and 252a, if these are suspected of containing documents or data as referred to in Article 177b or objects as referred to in Article 119a.
2. Article 122(2) applies likewise with regard to paragraph 1 and Articles 155 to 164 apply.

Article 177e

With regard to Articles 177a to 177d, Articles 125 and 126 apply likewise, with the proviso that in relation to letters and written documents, the search referred to in Article 125(2) extends to those which could serve to demonstrate the acquisition of unlawful benefits by the person against whom the investigation is directed.

Article 177f

1. The examining judge must guard against unnecessary delays to the criminal financial investigation. Article 220a applies likewise.
2. Officially or at the request of the person examined, the examining judge may provide for the documents of the investigation to be submitted and may order the immediate or early closure of the investigation.

Article 177g

1. As soon as the public prosecutor takes the view that the criminal financial investigation is complete or that there are no further grounds for its continuation, he will close the investigation by means of a written dated decision.

2. The public prosecutor will send his decision to the examining judge and serve a copy upon the person against whom it is directed, giving notice of the right to view the investigation documents.
3. If the defendant is not convicted in the final judgment on the punishable offence or crime referred to in Article 1(77)(3)(1) of the Criminal Code, the public prosecutor will also close the criminal financial investigation. In that case, the public prosecutor is authorised to claim reopening of the criminal financial investigation of the examining judge as soon as the defendant is convicted of the crime of which he is charged after all.
4. Without prejudice to the provisions of paragraph 2, Articles 501(2), 501(3), 502(3) and 503a(2)(c), a closed criminal financial investigation may be reopened pursuant to a further authorisation of the examining judge granted on claim from the public prosecutor. Article 177a(4) applies.
5. A further authorisation will be served upon the person against whom the investigation is directed at the earliest opportunity, together with the claim on which it is based. Paragraphs 1 to 4 apply.

Article 177ga

1. Except in the cases referred to in Article 177g(4), a criminal financial investigation may be instituted or reopened on claim from the public prosecutor if a final judgment has been handed down on the claim referred to in Article 1:77 of the Criminal Code.
2. The public prosecutor closes the investigation as soon as the judgment becomes final.

TITLE XVII
Special investigative powers

General provisions

Article 177h

1. Orders to exercise powers as referred to in Title XVIII and XIX and any change, addition to, renewal or withdrawal of these will be issued in writing. An oral order that is immediately recorded in writing is equated with a written order.
2. A written order shall state:
   a. the criminal offence and, in the case of suspicion, the name of the suspect, if known, or the most accurate identification possible of the suspect;
   b. the facts and circumstances showing compliance with the statutory conditions for exercising the powers;
   c. the way in which the order must be executed, and
   d. the term of validity of the order.
3. Every order may be changed, supplemented, extended or withdrawn.
4. Without prejudice to Article 53b, written orders and written changes, additions to, renewals or withdrawals of such orders will be added to the case documents as soon as the investigation permits.
5. As soon as compliance with the underlying conditions for the powers granted ends, the public prosecutor will order that the execution of the order, the claim or the agreement to apply this will be terminated.

6. A technical device may be deployed in order to apply an order, as referred to in paragraph 1. 'Deployment of a technical device' includes the installation and removal of a technical device.
7. Rules concerning the technical requirements with which the tools referred to in paragraph 6 must comply may be imposed by national decree containing general measures, partly with a view to the protection of the recorded observations.

Article 177i

1. An authorisation of the examining judge, as referred to in Title XVIII, will be issued in writing. An oral authorisation that, on pain of nullity, is recorded in writing within three days is equated with a written authorisation.
2. The authorisation will be issued in response to a written claim of the public prosecutor. An oral claim that is recorded in writing within three days is equated with a written claim.
3. The claim briefly describes the proposed order and contains an explanation of the reasons that gave rise to the claim.
4. The authorisation concerns all parts of the order. If a residential property may be entered for the execution of the order, this will be explicitly stated in the authorisation.
5. If the authorisation of the examining judge is required for an order of the public prosecutor, authorisation is also required for a change, addition to or extension of that order.
6. Without prejudice to Article 53b, the documents referred to in paragraphs 1, 2 and 5 shall be added to the case documents as soon as the investigation permits.

Article 177j

Civil servants of the other Countries of the Kingdom or of a foreign state who comply with the requirements to be imposed by national decree containing general measures for the application of powers to be designated in that decree may be equated with an investigating officer by Ministerial Order.

Article 177k

1. The public prosecutor will add statements and other objects to the case documents in accordance with Article 4.
2. In as far as the statements or other objects contain reports made by or to a person who could invoke rights of privilege pursuant to Article 252 if he were examined as a witness with regard to the contents of those reports, these statements and other objects will be destroyed without delay. In as far as the statements or other objects contain reports made by or to a person who could invoke rights of privilege pursuant to Article 252a if he were examined as a witness with regard to the contents of those reports, these statements and other objects will be destroyed immediately, unless the examining judge orders that such destruction may not take place.
3. Without prejudice to Article 4a, the addition to the case documents shall take place as soon as the investigation permits this.
4. If no record of the exercise of the powers referred to Titles XVIII and XIX is added to the case documents, the use of this authorisation will be reported in the case documents.

Article 177ka

1. The public prosecutor notifies the interested parties in writing of the exercise of the powers referred to in Titles XVIII and XIX as soon as the interests of the investigation permit. The notification will not be issued if this is not reasonably possible.
2. The following persons qualify as interested parties within the meaning of paragraph 1:
   a. the person concerning whom one of the powers referred to in Title XVIII or XIX is exercised;
   b. the user of a communication service, within the meaning of Article 177(r)(1);
   c. the right-holders referred to in Articles 177l(2), 177p(1) and 177q(2).
3. If the interested party is the defendant, notice need not be provided if he can be made aware of the application of the powers on the basis of the case documents.

Article 177kb

1. Until the case has been closed, the public prosecutor shall keep the records and other objects from which information can be derived or has been obtained through the exercise of powers as referred to in Titles XVIII and XIX, in as far as these have not been added to the case documents, and will keep these available for the investigation.
2. As soon as two months have passed since the closure of the case and the last notification, as referred to in Article 177ka, has been issued, the public prosecutor will destroy the records and other objects referred to in paragraph 1. A record of the destruction will be drawn up.
3. With regard to a closed case, the application of paragraph 2 is equated with a preparatory investigation that can reasonably be expected not to lead to legal proceedings.

Article 177kc

1. The public prosecutor may order in writing that data acquired by exercising a power as referred to in Titles XVIII and XIX may be used for a criminal investigation other than for which the authorisation was granted.
2. If paragraph 1 is applied, by way of derogation from Article 177kb(2) the data need not be destroyed until the other investigation has ended.
3. If paragraph 1 is applied, all documents relating to the exercise of the relevant power are added to the case documents for the new case.

Article 177kd

Rules concerning the way in which the statements and other objects acquired by exercising a power as referred to in Titles XVIII and XIX are stored and destroyed and regarding the way in which the notice referred to in Article 177ka is issued may be imposed by national decree containing general measures.

Article 177ke

In the interests of the investigation, the person against whom a claim, as referred to in Articles 177r(3), 177s and 177t, or an order as referred to in Article 177v is directed shall protect the confidentiality of everything of which he is aware in relation to the claim or order.

TITLE XVIII

Special powers

Section 1
Planned observation

Article 177l

1. In the interests of the investigation, the public prosecutor may order that an investigating officer observes a person in a planned manner in the event of:
   a. the suspicion of a criminal offence for which pre-trial detention is permitted;
   b. indications of a terrorist offence.
2. In the interests of an investigation concerning a criminal offence as referred to in paragraph 1a, which, in view of its nature or relationship with other crimes of which the defendant is suspected or which give rise to a serious breach of legal order, and if it concerns an offence as referred to in sub-paragraph b, the public prosecutor may decide that, for the execution of a warrant, an enclosed space, not being a residential property, may be entered without the consent of the right-holder.
3. In the interests of the investigation, the public prosecutor may decide that a technical device may be deployed for the execution of the order, in as far as this is not used for recording of any confidential communications. A technical device will not be attached to a person without his consent or in the case referred to in Article 177ta(3)(e).
4. The order will be issued for a term of no more than six weeks. The term of validity may be renewed for a term of six weeks on each occasion.
5. In addition to the data referred to in Article 177h, the order for planned observation will also state:
   a. the name or the most accurate identification possible of the person referred to in paragraph 1;
   b. with the application of paragraph 2, the facts or circumstances showing compliance with the conditions referred to in that paragraph, as well as the location that may be entered.

Section 2
Infiltration

Article 177m

1. In the event of suspicion of a criminal offence for which pre-trial detention is permitted and, in view of its nature or relationship to other suspected offences perpetrated by the defendant, this gives rise to a serious violation of the legal order, the public prosecutor may, if this is urgently required for the investigation, order an investigating officer to participate in or provide assistance to a group of persons in which it can reasonably be suspected the crimes are plotted or committed.
2. In the event of indications of a terrorist offence, if urgently required for the purposes of the investigation, the public prosecutor may order an investigating officer to participate in or assist a group of persons concerning which there are indications that they are plotting or committing a terrorist offence.
3. In the execution of the order, the investigating officer will not induce other persons to commit crimes other than those at which their intentions were already directed beforehand.

4. Apart from the data referred to in Article 177h, the infiltration order will also state:
   a. a description of the group of persons;
   b. the way in which the order must be executed, including actions designated as punishable, in as far as provision for this can be made on the issue of the order.
5. Paragraphs 1 and 2 are applied only with the prior written consent of the Attorney-General.

Section 3
Pseudo-purchasing or service provision

Article 177n

1. In the interests of the investigation, the public prosecutor may order an investigating officer to purchase goods or data stored or processed or transferred by means of an automated device through the intermediary of a provider of a communication service or to provide services to a person in the event that:
   a. the person concerned is suspected of a criminal offence for which pre-trial detention is permitted;
   b. there are indications of a terrorist offence.
2. In the execution of the order, the investigating officer will not induce others to commit crimes other than those at which their intentions were already directed beforehand.
3. In addition to the data referred to in Article 177h, the pseudo-purchasing or service provision order will also state the nature of the goods, data or services.
4. Paragraph 1 is applied only with the prior written consent of the Attorney-General.

Section 4
Systematic gathering of information

Article 177o

1. In the interests of the investigation, the public prosecutor may order an investigating officer to systematically gather information on a person, without it being known that he is acting as an investigating officer, in the event that:
   a. the person concerned is suspected of a criminal offence for which pre-trial detention is permitted;
   b. there are indications of a terrorist offence.
2. The order is issued for a maximum of six weeks. The term of validity may be renewed for a term of six weeks on each occasion.

Section 5
Powers in an enclosed space

Article 177p

1. In the interests of the investigation, the public prosecutor may order an investigating officer to enter an enclosed space, not being a residential property, without the consent of the right-holder, or to deploy a technical device in order to record the location, secure traces there or to install a technical device there in order to be able to establish the presence or movement of goods, in the case of:

a. the suspicion of a criminal offence for which pre-trial detention is permitted;
b. indications of a terrorist offence.

2. Apart from the data referred to in Article 177h, the order referred to in paragraph 1 also states the location to which the order relates.

Section 6
Recording and investigation of communications

Article 177q

1. If this is urgently required by the investigation, the public prosecutor, after being authorised to do so by the examining judge, may order an investigating officer to record confidential information with a technical device in the event of:
   a. suspicion of a criminal offence for which pre-trial detention is permitted that, in view of its nature and relationship with other crimes of which the defendant is suspected, gives rise to a serious breach of legal order;
   b. indications of a terrorist offence.
2. In the interests of the investigation, the public prosecutor may decide that for the execution of the order, an enclosed location, not being a residential property, will be entered without the consent of the right-holder. With the authorisation of the examining judge for that purpose, he may decide, if this is urgently required for the investigation, that a residential property will be entered for the execution of the warrant without the consent of the right-holder. In the case referred to in paragraph 1a, this concerns a criminal offence for which, according to the statutory description, a prison sentence of eight years or more may be imposed. With the exception of Article 162, Articles 155 to 163 apply likewise.
3. Apart from the data referred to in Article 177h, the warrant also states:
   a. at least the name of one of the persons who participate in the communications and, if the order concerns communications at an enclosed location or in means of transport, also the most accurate description possible of that location or means of transport;
   b. with the application of paragraph 2, the location that may be entered.
4. In the circumstances referred to in paragraph 1a, the warrant concerning a person who can invoke rights of privilege with regard to making a witness statement may be issued only if that person is designated as a suspect themselves.
5. The warrant is issued for a maximum period of four weeks. The term of validity may be renewed for a maximum term of four weeks on each occasion.
6. A record of the recordings will be drawn up within three days.

Article 177r

1. If urgently required by the investigation and with a warrant issued by the examining judge, the public prosecutor may order an investigating officer, with the aid of a technical device, to record communications not intended for the public that takes place with the use of the services of a provider of a communication service, in the event of:
   a. suspicion of a criminal offence for which pre-trial detention is permitted that, in view of its nature and relationship with other

crimes of which the defendant is suspected, gives rise to a serious breach of legal order;
   b. indications of a terrorist offence.
2. Apart from the data referred to in Article 177h, if possible the warrant will also state the number or other indication with which an individual user of the communication service is identified, as well as the name and address of the user, if known and an indication of the nature of the technical device or the technical devices with which the communications is/are recorded.
3. In the interests of the investigation, the warrant may be executed with the assistance of the provider of a communication service. In that case, the warrant will be accompanied by the written claim of the public prosecutor that the provider of the service provide assistance.
4. In the circumstances referred to in paragraph 1a, the warrant concerning a person who can invoke rights of privilege with regard to making a witness statement may be issued only if that person is designated as a suspect themselves.
5. The warrant is issued for a maximum period of four weeks. The term of validity may be renewed for a maximum term of four weeks on each occasion.
6. A record of the recordings will be drawn up within three days.

Article 177ra

1. If it is known on the issue of an order as referred to in Article 177r(3) that the user of the number referred to in Article 177r(2) is located in the territory of another state, that other state will be notified of the intention to record telecommunications, in as far as this is required by a treaty and with the application of that treaty, and the consent of that other state will be obtained before that order is executed.
2. If, following the commencement of recording of the telecommunications pursuant to the order, it becomes known that the user is located in the territory of another state, that other state will be notified of the recording of telecommunications, in as far as this is required by a treaty and with the application of that treaty, and the consent of that state will be obtained.
3. The public prosecutor may also issue an order as referred to in Article 177r(3) if the existence of the order is necessary in order to be able to request another state to record telecommunications with the aid of a technical device or to tap telecommunications and pass these on directly to the Country for the purpose of recording with a technical device in the Country.

Section 7
Claim of data

Article 177s

1. In the interests of the investigation, the public prosecutor may require persons who reasonably qualify for this and who process data for purposes other than for personal use to provide certain saved or recorded personal data. The claim may relate to data that have been processed at the time of the claim or that will be processed after the time of the claim, in the event of:
   a. the suspicion of a criminal offence for which pre-trial detention is permitted;
   b. indications of a terrorist offence.

2. A claim as referred to in paragraph 1 cannot be directed against the defendant or the person referred to in Articles 251, 252, 252a or 253. The claim may not relate to personal data concerning a person's religion or ideology, race, political opinions, health, sex life or membership of a trade union.
3. A claim as referred to in paragraph 1 is issued in writing and states:
   a. if known, the name, or otherwise the most accurate identification possible of the person or persons whose data are required;
   b. the most accurate description possible of the data required and the terms within which and the way in which these should be provided;
   c. the grounds for the claim.
4. If the claim for data relates to data to be processed after the date of the claim, the claim will be issued for a period of no more than four weeks and may be renewed for a maximum period of four weeks on each occasion. The public prosecutor reports this period in the claim.
5. In a case of urgent necessity, the claim may be made orally. In that case, the public prosecutor will record the claim in writing after the event and will provide it to the person against whom the claim is directed immediately after the claim has been issued.
6. The public prosecutor provides for a record of the data provision to be drawn up, which reports:
   a. the data referred to in paragraph 3;
   b. the data provided;
   c. the criminal offence and the name of the suspect, if known, or otherwise the most accurate identification possible of the suspect;
   d. the facts or circumstances showing compliance with the conditions referred to in paragraph 1;
   e. the reason why the data are required in the interests of the investigation.
7. In the event of suspicion of a criminal offence other than that referred to in paragraph 1a, in the interests of the investigation the public prosecutor may only issue a claim in that regard with the authorisation of the examining judge. Paragraphs 2 to 6 apply likewise.
8. Further rules concerning the manner in which the data are claimed and provided may be imposed by national decree containing general measures.

Article 177t

1. If urgently required in the interests of the investigation, the public prosecutor may claim the data referred to in the second sentence of Article 177s(2) from the person who can reasonably be assumed to have access to such data, in the event of:
   a. suspicion of a criminal offence for which pre-trial detention is permitted and that, in view of the nature of the crimes or their relationship with other suspected crimes committed by the suspect, give rise to a serious breach of legal order;
   b. indications of a terrorist offence.
2. A claim as referred to in paragraph 1 cannot be directed against the defendant or the person referred to in Articles 251, 252, 252a or 253.
3. A claim as referred to in paragraph 1 may be made only with prior authorisation, to be awarded by the examining judge.
4. Article 177s(3), 177s(5), 177s(6) and 177s(8) apply likewise.

Section 8
Covert investigation of an automated device

Article 177ta

1. If this is urgently required by the investigation, the public prosecutor, with the prior authorisation of the examining judge, may order an investigating officer to hack an automated device in use by the suspect and, using a technical device or otherwise, conduct an investigation in the event of:
   a. suspicion of a criminal offence for which pre-trial detention is permitted that, in view of its nature and relationship with other crimes of which the defendant is suspected, gives rise to a serious breach of legal order;
   b. indications of a terrorist offence.
2. The investigation of the automated device takes place with a view to:
   a. the determination of certain characteristics of the automated device, the presence of data or the determination of the identity or location of the automated device or its user;
   b. the recording of data processed in the automated device or that will not be processed until after the date of the issue of the order, in as far as reasonably necessary in order to reveal the truth;
   c. making data inaccessible;
   d. the execution of an order as referred to in Articles 177q and 177r;
   e. the execution of an order as referred to in Article 177l.
3. Apart from the data referred to in Article 177h, the warrant also states:
   a. if possible, a number or other indication with which the automated device can be identified and, if applicable, the fact that the data are not stored in the Country;
   b. an indication of the nature and functionality of the technical device referred to in paragraph 1, which is used for the execution of the order;
   c. the part or parts referred to in paragraph 2, with the purpose for which the order was issued;
   d. with regard to which part of the automated device and which category of data the order should be executed;
   e. in the event that this concerns an order as referred to in paragraph 2e, a statement of the intention to attach a technical device to a person.
4. The order is issued for a maximum term of four weeks. It may be renewed for a term of a maximum of four weeks on each occasion.
5. The authorisation states the parts of the order and the term for which the authorisation is in force.
6. Articles 168(1), 170, 171, 172a and the first sentence of Article 173 apply likewise.
7. The first paragraph applies only with the prior written consent of the Attorney-General.
8. Rules may be imposed by national decree containing general measures concerning, *inter alia*:
   a. the storage, provision, installation and removal of the technical device referred to in paragraph 1;
   b. the technical requirements with which the technical device must comply, including with a view to the integrity of the recorded data and with a view to the prevention of abuse by third parties;
   c. the recording of data concerning the execution of the order and the operation of the technical device.
   d. the application of the authorisation referred to in paragraph 1, in cases in which the location of the storage of the data is not known.

Section 9
Supporting powers

Article 177u

1. In order to be able to apply Article 177r or Article 177s, the public prosecutor may order the acquisition of the number with which a user of a communication service can be identified, with the aid of equipment described in a General Ministerial Order.
2. The order will be issued to an officer to be designated by national decree.
3. The order will be issued for a maximum period of one week and shall state:
   a. the facts or circumstances showing compliance with the conditions for the application of Article 177r or Article 177s, and;
   b. the name or the most accurate identification possible of the user of a communication service of whom the number must be obtained.
4. The public prosecutor will provide for the destruction of the records or other objects from which data can be derived that were acquired through the application of paragraph 1 if those data are not used for the application of Article 177r or Article 177s.

Article 177v

1. If required in the interests of the investigation, the public prosecutor may, on or immediately after the application of Article 177r(1), Article 177s(1), Article 177t(1) or Article 177ta(2), order the person who can reasonably be assumed to have knowledge of the encryption method for the data referred to in these Articles to provide assistance with accessing the data by reversing the encryption or by making that knowledge available.
2. The order will not be given to the defendant or to the person referred to in Articles 251, 252, 252a or 253.

TITLE XIX
Support for investigation by citizens

Section 1
Pseudo-purchases or service provision and gathering of information by citizens

Article 177w

1. In the interests of the investigation, an investigating officer may, by means of an order to that effect from the public prosecutor, agree with a person who is not an investigating officer that for the duration of the order, the latter will assist the investigation by purchasing goods or data stored on or processed by means of an automated device, via the intermediary of a provider of a communication service, from a person or providing services to a person, or systematically gathering information concerning a person if:
   a. the person concerned is suspected of a criminal offence for which pre-trial detention is permitted;
   b. there are indications of a terrorist offence.

2. Application of paragraph 1 will take place only if the public prosecutor takes the view that no order, as referred to in Article 177n(1) and Article 177o(1), can be issued.
3. A person who provides assistance for the detection pursuant to paragraph 1 shall not, in doing so, incite other persons to commit crimes other than those at which their intention was already directed.
4. Apart from the data referred to in Article 177h, the order will also state the nature of the goods, data or services.
5. The agreement is concluded in writing and records the rights and obligations of the person who assists in the search, the way in which the agreement is executed and the term of validity of the agreement. The agreement may be changed, supplemented, renewed or terminated.
6. The order to exercise the powers is issued for a maximum term of six weeks. The term of validity may be renewed for a term of six weeks on each occasion.
7. The first paragraph applies only with the prior written consent of the Attorney-General.

Section 2
Civil infiltration

Article 177x

1. In the event of suspicions of a criminal offence for which pre-trial detention is permitted and, in view of the nature of the offences committed by the defendant or their relationship with other suspected crimes of the defendant, these could give rise to a serious breach of legal order, the public prosecutor may, if this is urgently required by the investigation, agree with a person who is not an investigating officer that the latter will assist the detection process by participating in or assisting a group of persons which can reasonably be suspected of plotting or committing criminal offences.
2. In the event of indications of a terrorist offence, the public prosecutor may, if this is urgently required in the interests of the investigation, agree with a person who is not an investigating officer that the latter will assist the detection process by participating in or assisting a group of persons concerning which there are indications that it is plotting or committing a terrorist offence.
3. Application of paragraph 1 will take place only if the public prosecutor takes the view that no order, as referred to in Article 177m, can be issued.
4. A person who provides assistance for the detection pursuant to paragraph 1 shall not, in doing so, incite other persons to commit crimes other than those at which their intention was already directed.
5. In the application of paragraph 1, the public prosecutor records in writing:
   a. the criminal offence and if known, the name of the suspect or otherwise the most accurate identification possible of the suspect;
   b. a description of the group of persons;
   c. the facts or circumstances showing compliance with the conditions referred to in paragraphs 1 and 2.
6. The infiltration agreement is recorded in writing and states:
   a. the rights and obligations of the person who provides assistance for the detection pursuant to paragraph 1 and the way in which the agreement will be executed, and

b. the term of validity of the agreement.
7. The person who provides assistance for the detection shall not commit any criminal actions in doing so unless written permission to perform such actions is granted by the public prosecutor in advance. In a case of urgent necessity, the permission may be granted orally. In that case, the public prosecutor will record the consent in writing without delay.
8. The agreement may be changed, supplemented, renewed or terminated in writing. The public prosecutor records the reasons for this in writing within three days.
9. Paragraphs 1 and 2 will be applied only with the prior written consent of the Attorney-General.

TITLE XX
Admission

Article 177y

1. The investigating officer is required to make use of the seizure powers awarded to him by national ordinance if, during the investigation, he knows the location of objects, possession or holding available of which is prohibited by national ordinance due to the risk they present to health and safety. Deferment of seizure will be permitted only in the interests of the investigation, with a view to performing this at a later date.
2. Deferment of seizure will take place only on the basis of a prior order of the public prosecutor.
3. The order is issued in writing and states:
   a. the objects to which it relates;
   b. the manner in which the order should be executed;
   c. the time at which or the period for which the order applies.
   4. The seizure obligation referred to in paragraph 1 does not apply if the public prosecutor orders otherwise for the purpose of a serious investigative interest.
5. An order as referred to in paragraph 4 will be issued in writing and shall state:
   a. the objects to which it relates;
   b. the serious investigative interest;
   c. the time at which or the period in which the seizure obligation does not apply.
6. The application of paragraph 4 will take place only with the prior written consent of the Attorney-General.

TITLE XXI
Exploratory investigation

Article 177z

1. If facts or circumstances give rise to indications that criminal offences for which pre-trial detention is permitted are being plotted or committed within a group of persons and these offences, in view of their nature and relationship with other suspected criminal offences plotted or committed within that group, give rise to a serious breach of legal order, the public prosecutor may order investigating officers to open an investigation into this with the aim of preparation of detection.

2. With prior written authorisation to be granted by the examining judge in response to a claim of the public prosecutor, the public prosecutor may, in the interests of the investigation, order a person who reasonably qualifies for this and who processes personal data, other than for personal use, to provide certain stored data or recorded data of a person for the purpose of processing of those data.
3. A claim, as referred to in paragraph 2, may not be directed against the persons referred to in paragraph 1 or the person referred to in Articles 251, 252 or 253.
4. The processing referred to in paragraph 2 may consist of the comparison or combined processing of the data with data from the police registers.
5. The processing will be performed in a manner that ensures the protection of the personal privacy of persons in as far as possible.
6. The public prosecutor shall draw up a record of the provision of data referred to in paragraph 2, stating:
   a. the data provided;
   b. the reason why the data are claimed in the interests of the exploratory investigation.
7. The public prosecutor shall draw up a record of the processing, including:
   a. an indication of the data regarding which the processing is performed;
   b. a description of the way in which the processing is performed;
   c. the facts or circumstances showing compliance with the conditions referred to in paragraph 2.
8. Rules concerning the way in which the data resulting from an investigation, as referred to in paragraph 1, will be kept and destroyed may be imposed by national decree containing general measures.

TITLE XXII
Search of objects, means of transport and clothing in the event of indications of a terrorist offence

Article 178

1. In the event of indications of a terrorist offence, the investigating officer is authorised by an order to that effect from the public prosecutor to search objects and subject these to recording and to take samples from these, in the interests of the investigation. To that end, the officer is authorised to open packages.
2. If the investigation, the recording or the sampling cannot take place on the spot, the investigating officer is authorised to remove objects for that purpose for short periods, for receipt, to be issued by him in writing as far as possible.
3. The order may be issued orally. It is issued for a maximum period of 12 hours for an area defined with the order. The term of validity may be extended by a maximum of 12 hours on each occasion.
4. In security risk areas designated by national decree containing general measures, an order of the public prosecutor to exercise one of the powers referred to in this Article may be omitted, subject to conditions to be imposed by that national decree.

Article 179

1. In the event of indications of a terrorist offence, the investigating officer, on an order of the public prosecutor to that effect, is authorised to search means of transport in the interests of the investigation.
2. With such an order, the investigating officer is also authorised:
   a. to inspect the loads of means of transport;
   b. to order the driver of a means of transport to provide access to the documents required by law with regard to the freight;
   c. to require the driver of a means of transport to halt his means of transport and transfer to a location designated by the investigating officer.
3. Article 178(3) and 178(4) apply likewise.

Article 180
1. In the event of indications of a terrorist offence, the investigating officer is authorised by an order to that effect from the public prosecutor to search the clothing of persons, in the interests of the investigation.
2. With such an order, the investigating officer is also authorised to make use of detection equipment or other aids.
3. Article 178(3) and 178(4) apply likewise.
4. Further rules concerning the way in which the search referred to in paragraph 1 is conducted may be imposed by national decree containing general measures.

Article 181
(no text)

Article 182
(no text)

BOOK FOUR
Criminal investigation, investigation by the examining judge and the decisions to be taken afterwards

TITLE I
Criminal investigations

Section 1
General provisions

Article 183
1. The Attorney-General supervises the detection of criminal offences and to that end, may issue the necessary orders to the persons charged with the detection of criminal offences or who are authorised for that purpose.
2. The public prosecutor manages the entire preparatory investigation, without prejudice to the provisions of this Code concerning the intermediary of the examining judge.
3. On appeal, the Attorney-General may issue direct orders for further investigation.

Article 184
1. The following are responsible for the detection of criminal offences:
   a. the police officers;

b. the officers of the Criminal Intelligence Service, as provided for by statutory regulations;
c. the special police agents, in as far as they are appointed for that purpose.

2. The Attorney-General, the advocates general and the public prosecutors are authorised to investigate criminal offences.
3. In the performance of their official duties, the officers referred to in paragraph 2 have a right to issue orders to the officers referred to in paragraph 1 and in the following Article.

Article 185

Persons who are entrusted by or pursuant to special statutory regulations with vigilance for the enforcement of, provision for or compliance with these regulations or with vigilance for the investigation of the criminal offences referred to in those regulations are also charged with the investigation of criminal offences, in as far as this concerns these offences and in as far as provision is made for this in those regulations.

Article 186

1. At the earliest opportunity, the investigating officers referred to in Articles 184(1) and 185 make a statement concerning the criminal offence that they have detected or the investigative actions that they have taken and what they have found. They draw up these statements under their official oath or pledge. In as far as they have not submitted these statements, they will be sworn in within twice 24 hours, or will take the pledge within that term, before an assistant public prosecutor, who will include a statement of this in the record.
2. The statements will be drawn up, dated and signed by the investigating officers in person. In as far as possible, the reasons for their knowledge must also be explicitly stated in these statements.
3. Interrogation of suspects of criminal offences by investigating officers, as described in Article 100(1), will also be recorded with the aid of audio recording equipment and if possible, audio-visual equipment. Further rules concerning the technical requirements to be set for this equipment and the storage of the data obtained with this may be imposed by national decree containing general measures.
4. If the investigation is conducted by a public prosecutor in person, he presents his findings in a statement drawn up under his official oath or pledge. In as far as possible, the reasons for their knowledge must also be explicitly stated in these statements.
5. If the Attorney-General or the advocate general exercise their investigative powers, the provisions concerning the public prosecutor apply likewise as far as possible.

Article 187

If the public prosecutor obtains knowledge of a criminal offence, he shall institute the necessary criminal investigation.

Article 188

1. In order to inspect the local condition of any object, the public prosecutor may enter any location with the persons that he designates, without prejudice to the provisions of Articles 155 to 164.
2. A record of entry of a residential property when the occupant has refused consent for this will be drawn up within twice 24 hours.

Article 189

1. In as far as this is not contrary to the interests of the investigation, the public prosecutor will notify the defendant and his counsel of the proposed inspection in writing, in a timely manner.
2. In as far as this is not counter to the interests of the investigation, the public prosecutor will permit the defendant and his counsel to attend part or all of the inspection. They may request permission to give instructions or provide information, or that certain comments be reported in the record.

Article 190

1. In the interests of the investigation, the public prosecutor may appoint an expert, officially or at the request of the defendant.
2. The authorisation referred to in paragraph 1 also accrues to the assistant officer, in as far as this concerns a simple technical investigation. Further rules concerning the nature of the technical investigation that may be assigned may be imposed by or pursuant to national decree containing general measures.

Article 190a

1. The public prosecutor notifies the defendant in writing of the assignment issued to the expert and of the time and location of the investigation, as soon as this is not counter to the interests of the investigation. The defendant may request that an additional investigation be conducted or that instructions be issued regarding the investigation to be conducted.
2. The defendant will be notified of the results of the investigation at the earliest opportunity, unless deferment of that notification is called for in the interests of the investigation.
3. Within two weeks of notification of the results, the defendant may request a counter-investigation, stating the reasons why he considers that the performance of a counter-investigation is called for. He also states which expert should conduct the investigation, which must be equivalent to the first investigation.
4. No deferment will take place of the notification of the results of an investigation conducted at the request of the defendant.

Article 190b

1. If the public prosecutor rejects a request from the defendant to appoint an expert or to conduct a counter-investigation, an additional investigation or an investigation according to certain instructions, he will notify the defendant of this, stating the reasons.
2. Within two weeks of the notification of this rejection, as referred to in paragraph 1, the defendant may request the examining judge to appoint an expert or to expand the investigation.
3. The examining judge decides on this request as soon as possible and notifies the defendant and the public prosecutor of this at the earliest opportunity.

Article 190c

1. If the public prosecutor orders a counter-investigation pursuant to Article 190a(3) or the examining judge does so pursuant to Article 190b(3), he shall commission an expert for that purpose. The public prosecutor notifies the defendant of this in writing.

2. The expert who conducts the counter-investigation will be enabled to perform this; to that end, he will be granted access to the investigative material and the relevant data from the first investigation.
3. Further rules regarding the conduct of the investigation referred to in paragraph 1 may be imposed by national decree containing general measures.

Article 191

1. At the location where, and within the limits of their investigative powers, investigating officers as referred to in Article 184(1) and Article 185 will be designated as assistant public prosecutors by national decree, with the consent of the Attorney-General.
2. The assistant public prosecutors are required to provide all information and to facilitate such investigations as are claimed by the public prosecutor.
3. Differing and further regulations may be imposed in that regard by or pursuant to a national decree containing general measures, in particular with regard to imposing qualitative requirements and the conditions under which an assistant public prosecutor may make use of his powers.

Article 192

If it is not possible to await the action of the public prosecutor, the assistant public prosecutors also hold the powers described in Article 188. The assistant public prosecutor shall notify the public prosecutor of the proposed inspection in a timely manner. Article 189 applies likewise.

Article 193

The assistant public prosecutors shall send the statements that they receive or draw up, as well as the report as the injured party and the seized objects to the public prosecutor without delay.

Article 194

1. Investigating officers who are not assistant public prosecutors shall send their statements, the reports or messages concerning criminal offences and the report as the injured party, together with the seized objects, to the assistant public prosecutor under whose direct orders or supervision they operate, without delay.
2. In exceptional cases, the public prosecutor may, by way of derogation from paragraph 1, order that these be sent to him directly.

Article 195

Without prejudice to the provisions in special statutory regulations, the persons referred to in Article 185 shall send their statements, the reports or messages concerning criminal offences and the report as the injured party, together with the seized objects, to the public prosecutor without delay.

Article 196

After acting in accordance with Articles 192 to 195, the assistant public prosecutors and the other investigating officers will await the further orders of the public prosecutor; if the interests of the investigation do not allow them to wait, they will continue the investigation and obtain further information that can further clarify the case. They shall give evidence of

this investigation and the seized objects by means of a statement in which they act in accordance with Articles 193, 194 or 195.

Article 197

1. In the interests of investigations in criminal cases, the Public Prosecutors Office may call on the assistance of persons and bodies employed in the field of probation and social rehabilitation and, if they have declared themselves willing to accept these, issue them orders to gather data concerning the personality, living conditions or the social rehabilitation of a defendant. The report on the execution of the order will be issued orally or in writing in accordance with the request of the Public Prosecutors Office for this.
2. If the Public Prosecutors Office requests persons or bodies as referred to in paragraph 1, to realise orders or to present reports on the execution of orders at a hearing or to attend or to be represented in any other investigation of a criminal case, they shall comply with this request as far as possible.

Section 2
Reports and complaints

Article 198

1. Every person who has knowledge of one of the crimes referred to in Articles 2:57 and 2:58 of the Criminal Code, or of the intention to commit one of these crimes is required to report this to an investigating officer without delay. A similar obligation applies regarding everyone with knowledge of a terrorist offence.
2. The provisions of paragraph 1 do not apply to a person whose report could create a risk of prosecution for himself or for a person in relation to whose prosecution he could invoke rights of privilege with regard to making statements as a witness.
3. Likewise, every person with knowledge that a person is being kept a prisoner at a location that is not legally intended for that purpose is obliged to report this to an investigating officer without delay.

Article 199

Everyone who has knowledge of the perpetration of a criminal offence is authorised to report this. The interested party is authorised to file a complaint.

Article 200

1. Public boards and officers that, in the provision of their service, acquire knowledge of a criminal offence that they are not responsible for investigating are required to report this to the public prosecutor or assistant public prosecutor without delay, submitting documents relevant to the case,
   a. if the criminal offence involves official misconduct, as referred to in Title XXVIII of Book 2 of the Criminal Code, or
   b. if the criminal offence is committed by a civil servant who has violated a special official duty or in doing so, has made use of powers, opportunity or means provided to him by his office, or
   c. if a regulation which they are assigned to execute or to ensure compliance with is breached or is used unlawfully for the purposes of the criminal offence.

2. They will provide the public prosecutor or the assistant officer with all information concerning criminal offences which they are not responsible for investigating and of which they became aware in the provision of their services, on request.
3. The provisions of paragraphs 1 and 2 do not apply to an official who, by reporting or providing information, could create a risk of prosecution of themselves or of a person who could invoke rights of privilege in relation to making witness statements with regard to their prosecution.
4. Equivalent obligations are borne by legal entities or bodies of legal entities, the tasks and powers of which are described by or pursuant to national ordinance, in as far as designated for that purpose by national decree containing general measures.
5. Rules in the interests of the good implementation of this Article may be imposed by national decree containing general measures.
6. By agreement with the public prosecutor and in observance of the rules imposed pursuant to paragraph 5, the reporting obligation relating to criminal offences referred to in paragraph 1c may be restricted further.

Article 201

1. Reporting of a criminal offence takes place orally or in writing to the authorised officer, either by the reporter in person or by another person granted a special written power of attorney for that purpose by the reporter.
2. The officer who receives the oral report records this in writing and, after it has been read out, is signed by the reporter or his authorised representative. If these persons are not able to sign, the reason or impediment is reported.
3. If the reporter or his authorised representative do not master the language used, or do not do so adequately, they will be enabled to make their report in a language that they understand or speak and will receive the necessary linguistic support for that purpose.
4. The reporter will be handed a written copy of his statement free of charge, in a language that he understands, unless this is urgently opposed by the interests of the investigation.
5. The written report will be signed by the reporter or his authorised representative. The written power of attorney or, if this is executed before a civil-law notary in one original, an authentic copy of this, will be attached to the deed.
6. The investigating officers are required to take receipt of the reports referred to in Articles 198 and 199, and the officers referred to in Article 200 are required to take receipt of the reports referred to in that Article. Article 194 applies.

Article 202

1. For criminal offences that can only be prosecuted in response to a complaint, that complaint is made orally or in writing to the authorised officer, either by the person authorised to make the complaint or by another person that they authorise for that purpose by means of a special written power of attorney. The complaint consists of a report with a request for prosecution.
2. Paragraphs 2, 3 and 4 of Article 201 apply.

Article 203

1. Every public prosecutor and every assistant public prosecutor is authorised and obliged to take receipt of complaints.

2. Article 193 applies.

Article 204
If the complaint made pursuant to Article 1:140(1) of the Criminal Code by the legal representative of a minor aged 12 or more or by a person under tutelage, the public prosecutor will not commence prosecution until after the represented person, if he or she resides in the Country, has been given an opportunity to express his or her opinion regarding the desirability of prosecution, or at least, after having been properly called upon to do so, unless this is not possible or desirable in view of the physical or mental condition of the minor or the person under tutelage.

Article 205
The withdrawal of a complaint takes place before the officers, in the manner and in the form for making the complaint, as provided for in Articles 201, 202 and 203. Article 193 applies.

Article 206
(no text)

Section 3
Decision concerning prosecution

Article 207
1. If the public prosecutor takes the view in response to the criminal proceedings instigated that prosecution should take place without deploying the examining judge for further investigation, the public prosecutor will commence prosecution at the earliest opportunity.
2. Prosecution may be waived on grounds derived from the general interest. While setting certain conditions, the Public Prosecutors Office defer the decision as to whether prosecution should take place for a term to be set at that time.
3. If grounds for prosecution are deemed to be present, the public prosecutor considers whether the case can be settled by means other than through the courts, taking all the circumstances into account.

Article 208
With regard to a criminal offence as described in Article 2:200, 2:202 or 2:203 of the Criminal Code and committed against a minor aged 12 or more, the Public Prosecutors Office must give the minor an opportunity to give his or her views on the crime committed, if possible.

Article 209
(no text)

TITLE II
The examining judge responsible for handling criminal cases

Section 1
Appointment and dismissal

Article 210
1. The President of the Court of Justice, after hearing the Attorney-General, will appoint one or more members or deputy members of the

Court or replacement justices in the first instance as examining judges charged with the handling of criminal cases before the Court of First Instance, or as a replacement for the examining judge.
2. The appointment will be made for a term to be set by the President.
3. The President of the Court may discharge the examining judge from his position on his request, for serious reasons, before the expiry of the term for which he is appointed, after the Attorney-General has been heard.

Article 211
Following the termination of his position, the examining judge will continue the handling of a case that he commenced and bring this to a close.

Article 212
If the examining judge or his replacement are absent, one of the members or replacement members of the Court of Justice, or replacement judges in the first instance will represent him in that position.

Section 2
Actions of the examining judge in general

Article 212a
The examining judge is charged in particular with the execution of supervisory powers relating to the criminal investigation, officially in cases specified by this Code and also in response to claims of the public prosecutor or at the request of the defendant or his counsel.

Article 213
1. The examining judge is supported in his actions by a Clerk of the Court.
2. In the absence of the Clerk of the Court, the examining judge may, in urgent cases, appoint a person to act as the Clerk of the Court in respect of certain designated actions. Prior to the commencement of his work, the replacement Clerk of the Court will be sworn in by the examining judge, swearing that he will perform his duties correctly.

Article 214
1. The examining judge will instruct the Clerk of the Court to draw up a statement of what was declared, performed or occurred in the investigation, or what he observed; this must also explicitly state the reasons for the knowledge as far as possible.
2. If this leads to correct understanding of a statement or is required for other reasons, or if the defendant, witness or expert or the legal counsel requires this, he will also report the request on the basis of which the statement was made in the record.
3. If the defendant, witness or expert or the legal counsel requires that any statement is recorded in his own words, this will take place as far as possible and in as far as the statement does not exceed reasonable limits.

Article 215
No questions will be put with the purport of acquiring statements that cannot be said to have been made freely.

Article 216

1. Every witness, expert or defendant signs his statement after this has been read to him or he has read it, and he has declared that he abides by this.
2. In the absence of a signature, the refusal or the cause of the impediment is reported.

Article 217
1. Nothing shall be written between the lines of the statement.
2. Deletions and referrals will be signed and certified by the examining judge and the Clerk of the Court, and by the person to whose statement the deletion or referral relates. In the absence of a signature or certification, the rejection or the cause of the impediment will be reported.

Article 218
The statement will be signed by the examining judge and the Clerk of the Court.

Article 219
1. The examining judge may, through the intermediary of the public prosecutor as far as possible, issue instructions and orders to the officers referred to in Article 184(1) and to the persons referred to in Article 185 to conduct inquiries in the interests of the investigation, either officially or on the claim of the public prosecutor or at the request of the defendant or his counsel.
2. The examining judge has powers equal to those assigned to the Public Prosecutors Office in Article 197.

Article 219a

The public prosecutor shall ensure that the examining judge receives all relevant documents and provides the examining judge with the information necessary for good performance of his tasks.

Article 220
If any criminal offence is committed during the investigation in the absence of the public prosecutor, the examining judge will draw up a record of this and send it to the public prosecutor.

Article 220a
If an official action of the examining judge must take place in a part of the Kingdom where another examining judge is competent, the examining judge may transfer this action to his colleague in that other part of the Kingdom.

TITLE III
Investigation by the examining judge

Section 1
Reason for the performance of investigative actions

Article 221
1. Until the substantive handling of the case by the Court of First Instance commences, the public prosecutor may require the examining judge to

perform investigative actions with a view to the investigation of a criminal offence. He shall provide a description of the offence to which the investigation should relate and of the investigative actions that he requires here. The claim identifies the defendant if known.
2. The examining judge will hand down a decision stating the reasons.
3. The examining judge sends the claim of the public prosecutor and his decision in that regard to the defendant, if known, unless this is against the interests of the investigation.

Article 222

1. A person who is heard as a suspect of a criminal offence or who is already being prosecuted in relation to a criminal offence may, until the substantive handling of the case by the Court of First Instance has begum, request the examining judge in writing to perform investigative actions in that regard.
2. The request includes a statement of the offence and of the investigative actions to be performed by the examining judge, stating the reasons. The examining judge sends the public prosecutor a copy of the request without delay. The public prosecutor may submit his views of the petition in writing.
3. The examining judge may hear the defendant with regard to the petition. The defendant may provide for the support of a legal counsel at that hearing. The examining judge will notify the public prosecutor of the time and place of the hearing. The public prosecutor is authorised to attend the hearing and to make the necessary comments.
4. The examining judge hands down a decision on the petition at the earliest opportunity. The decision states the reasons and is notified to the defendant and the public prosecutor in writing. If the request is granted, the decision shall state the offence to which the investigation relates and the examining judge will conduct the requested investigative actions at the earliest opportunity.

Article 222a

If the defendant is held in pre-trial detention or if the examining judge performs investigative actions in response to a claim of the public prosecutor or at the request of the defendant, the examining judge may perform investigative actions officially if he regards this as necessary in relation to the offences described. He will notify the public prosecutor and the defendant of his decision to perform investigative actions without delay, stating the relevant investigative actions and the offences to which these relate.

Article 223

1. In relation to an investigation instituted pursuant to Article 221, or an investigation instituted officially pursuant to Article 222a, the defendant may notify the examining judge of his investigative wishes in writing. The examining judge sends the public prosecutor a copy of the request.
2. In relation to an investigation instituted pursuant to Article 222, or an investigation instituted officially pursuant to Article 222a, the public prosecutor may claim that certain investigative actions are performed. The examining judge sends the defendant a copy of the claim.
3. The examining judge decides by means of a written decision, stating the reasons, which he sends to the defendant and the public prosecutor.

Article 224

1. If the examining judge notifies his decision to perform investigative actions in a case on the grounds of Articles 221 to 223, the public prosecutor will send him copies of the case documents at the earliest opportunity. The public prosecutor informs the examining judge who performs the investigative actions of the progress of the criminal investigation, on his own initiative or at the request of the examining judge.
2. The examining judge provides the public prosecutor with written information on the investigative actions that he has taken or will take. The examining judge also provides information to the defendant, officially or at the defendant's request, unless this is counter to the interests of the investigation.

Section 2
The investigative actions

Article 225

1. If the examining judge considers this necessary for the good progress of the investigation, he will call the public prosecutor and the defendant to appear before him in order to discuss the status of the investigation.
2. In the interests of the good progress of the investigation, the examining judge may, on the occasion of or immediately following the control meeting referred to in paragraph 1, set a term for the public prosecutor and the defendant to submit a claim or request to perform investigative actions, or for the support for this.

Article 226

1. The public prosecutor and the counsel are authorised to attend the examination by the examining judge, unless this is counter to the interests of the investigation. The examining judge facilitates their attendance at the examination, without this being allowed to delay the investigation. They shall refrain from all action that serves to influence the examination.
2. If the examining judge considers this to be desirable in the interests of the investigation, he may also give the defendant an opportunity to attend the examination of a witness or expert.

3. As far as possible, the public prosecutor, the defendant and his counsel will be given an opportunity to put questions and, even if they do not attend the examination, may submit questions that they wish to be put.

Article 227

1. If there are well-founded suspicions that the witness or expert will not appear at the hearing, the examining judge will invite the public prosecutor and the defendant and his counsel to attend the examination, unless the interests of the investigation brook no delay of the examination.
2. The examining judge may order the defendant to leave the location of the examination to enable a witness or expert to be examined in the absence of the defendant. He may decide that the defendant and his counsel may not attend the examination of the witness, in as far as this is strictly necessary in view of the interests referred to in Article

227d(1). In the latter case, the public prosecutor is also not authorised to attend the examination.
3. If the witness or expert are examined in the absence of the public prosecutor, the defendant and his counsel, they will be notified at the earliest opportunity of what the witness or expert stated, in as far as this is consistent with the protection of the interests referred to in Article 227d(1).

Article 227a

A defendant who has no legal counsel will be assigned a counsel without delay, on the order of the examining judge, in accordance with Articles 61 to 69, if that legal counsel would be authorised to attend any examination pursuant to the provisions of Article 226(2) or 227.

Article 227b

1. Officially or in response to a claim of the public prosecutor or a request of the defendant, the examining judge may prevent a response to any question by the public prosecutor, the defendant or his counsel.
2. The fact that a response to a particular question is prevented by the examining judge will be reported in the record of the examination.

Article 227c

The examining judge may grant special permission to attend the examination of a witness or expert.

Article 227d

1. Either officially or in response to a claim of the public prosecutor or a request of the defendant or his counsel or the witness, the examining judge may prevent the public prosecutor, the defendant or his council from becoming aware of replies to questions concerning a particular fact if there are well-founded suspicions that as a result of the disclosure of this fact:
   a. the witness will suffer serious difficulties or will be seriously impeded in the performance of his official or professional duties,
   b. a serious detection interest is harmed, or
   c. the interests of national security are harmed.
2. The examining judge will report the reasons for the application of the provisions of paragraph 1 in his record.
3. The examining judge will take the measures that are reasonably necessary to prevent the disclosure of a fact as referred to in paragraph 1. To that end, he is authorised to omit certain data from case documents.

4. If the examining judge prevents the public prosecutor, the defendant or his counsel from becoming aware of an answer, he shall state in the record that the question put was answered.
5. No appeal is permissible against the decision on the grounds of paragraph 1.

Article 228

The examining judge will take the necessary measures to prevent the defendants, witnesses and experts who appear for examination from consulting each other before or during their examination.

Article 229

1. The defendants, witnesses and experts will each be heard separately.
2. However, officially or on the claim of the public prosecutor or at the request of the defendant or his counsel, the examining judge may place them in opposition to each other or hear them in each other's presence.

Article 230

1. The examining judge asks the defendant, witnesses and experts for their names, ages, occupations and place of residence or accommodation and also asks the defendant for his place of birth. If the defendant is known, the examining judge asks the witnesses and the experts to state their relationship to the defendant.
2. Either officially or in response to a claim of the public prosecutor or a request of the defendant or his counsel or the witness, the examining judge may decide that questions concerning a particular fact, as referred to in paragraph 1, will be omitted if there are well-founded suspicions that, in connection with making his statement, the witness will experience difficulties or constraints in the performance of his profession. The examining judge will take the measures that are reasonably necessary to prevent disclosure of this fact.
3. The examining judge will report the reasons for the application of the provisions of paragraph 2 in his record.
4. In the case of an examination of a threatened witness or of a protected witness whose identity is kept concealed, paragraph 1 does not apply.

Article 231

1. If a defendant , witness or expert does not understand the language used by the examining judge, an interpreter will be deployed, who must have reached the age of 18 years. Article 349 applies.
2. If a defendant or witness is unable to hear or speak, or can only do so very poorly, the examining judge will order that the questions or the answers take place in writing.
3. If the defendant or witness referred to in paragraph 2 cannot read or write, or can only do so very poorly, the examining judge may deploy a suitable person as an interpreter.
4. If necessary, the interpreter will be summoned on the orders of the examining judge.

Article 232

1. Officially, on the claim of the public prosecutor or at the request of the defendant or his counsel, the examining judge may, in order to inspect the local condition of any object, enter any location with the persons that he designates, without prejudice to the provisions of Articles 155 to 164.
2. By agreement with the public prosecutor, the examining judge may decide that the defendant, the witnesses and experts will be heard on the spot.
3. A record of entry of a residential property when the occupant has refused consent for this will be drawn up within twice 24 hours.

Article 233

1. The examining judge will notify the public prosecutor and, in as far as this in not counter to the interests of the investigation, the defendant and his counsel of the proposed inspection, in writing, in a timely manner.

2. The public prosecutor may attend every inspection. In as far as this is not counter to the interests of the investigation, the examining judge will permit the defendant and his counsel to attend part or all of the inspection. They may request permission to give instructions or provide information, or that certain comments be reported in the record.

Article 234
(no text)

Article 235
1. Officially or in response to a claim of the public prosecutor, the examining judge may order that, in the interests of the investigation a defendant against whom serious objections exist undergoes a body search or search of his clothing.
2. Officially or in response to the claim of the public prosecutor, the examining judge may order that a defendant against whom there are serious objections undergo a body cavity search. 'Body cavity search' refers to the external examination of the orifices and cavities of the lower body, X-ray examination, ultrasound examination and internal manual searches of the orifices and cavities of the body. The physical examination shall be performed by a physician. The search will not be conducted if this is undesirable for special medical reasons.
3. In a case of urgent necessity, the examining judge may also issue the order referred to in paragraph 1 in relation to persons who are suspected of carrying traces of the criminal offence on their bodies or clothing.
4. The searches referred to in paragraphs 1 to 3 will be conducted in an enclosed space and, in as far as possible, by persons of the same gender as the person to be searched. Detection equipment or other devices may be used.
5. The warrant will not be issued until after the person concerned has been heard in that regard.
6. Article 78(6) applies likewise.
7. Serious objections, as referred to in paragraphs 1 and 2, are not required in the case of a defendant who is remanded in custody on suspicion of a terrorist offence.

Section 2A
DNA

Article 235a
1. Officially or in response to a claim of the public prosecutor or a request of the defendant or his counsel, the examining judge may, in the interests of the investigation, order a test aimed at the comparison of DNA profiles. For the purpose of that test, he may request the defendant or a third party to provide cellular material. Except in the case of the application of Article 235b or a loss, as referred to in the next sentence, cellular material may only be taken with the written consent of the suspect or the third party. If the third party is missing as a result of a criminal offence, the test may be conducted on cellular material on objects seized from it or on cellular material acquired in other ways.
2. The examining judge will appoint an expert to conduct the test. The expert will present a report to the examining judge, stating the reasons.

Laboratories to which the experts should be affiliated may be designated by national decree containing general measures.

3. If insufficient cellular material is available for a counter-test, as referred to in Article 235c(1), the examining judge grants the suspect, if only one suspect is known, the opportunity to appoint an expert affiliated to one of the designated laboratories, who will conduct the test. Article 235c remains inapplicable.
4. If the test of the cellular material gathered has been conducted, the person tested will be notified of the outcome of the test in writing at the earliest opportunity by the examining judge. If the test was conducted on other cellular material, he shall notify the suspect, if known, of the results of the test in writing as soon as the interests of the investigation permit. In cases other than that referred to in paragraph 3, he will refer the defendant to the provisions of Article 235c.
5. The examining judge provides for the cellular material to be destroyed. A record of the destruction will be drawn up without delay. Further rules concerning the destruction may be imposed by national decree containing general measures.
6. Characteristics of cellular material may be recorded in a register. Rules concerning the creation and viewing of the register, as well as with regard to the cases in which the recording of data in this register is permitted and the way in which an appeal against this can be filed with the Court of Justice, may be imposed by national decree containing general measures.

Article 235b

1. Officially or in response to a claim of the public prosecutor, the examining judge may, in the interests of the investigation, order that cellular material be taken from a suspect of a criminal offence for which pre-trial detention is permitted and against whom serious objections exist for a test as referred to in Article 235a(1) if he refuses to grant written permission for this. Articles 235a(2) to 235a(6), 235c and 235d apply likewise.
2. The examining judge will not issue the order until the defendant has been granted an opportunity to be heard by the judge. The defendant has the right to provide to be supported by a legal counsel at the hearing.
3. The order will be executed by taking a buccal swab. If taking a buccal swab is undesirable for exceptional medical reasons or due to the objections of the suspect, or if this does not produce any suitable cellular material, blood or hair root samples will be taken, if necessary with the aid of the police. The sample of cellular material will be taken by a physician or a nurse.
4. The order or the enforcement or further enforcement of the order may be waived if, in the view of the examining judge, serious reasons arise to conduct the test referred to in Article 235a on other cellular material or the suspect consents to the taking of a sample of cellular material in writing. If the event of serious reasons, the test may be conducted on cellular material on objects seized from the suspect or on cellular material acquired in other ways.
5. Within three days of the service of the order issued pursuant to paragraph 1, the defendant may file an appeal against this order with the Court of Justice, which will decide on the appeal at the earliest opportunity. The defendant shall be heard. Pending the decision of the Court of Justice, the order will not be executed.

6. Serious objections, as referred to in paragraph 1, are not required in the case of a suspect who is remanded in custody on suspicion of a terrorist offence.

Article 235c

1. Within 14 days of being notified in writing of the result of the test referred to in Article 235a(1), the defendant may request the examining judge to assign another expert that he designates to conduct the test based on a comparison between characteristics of cellular material. Laboratories to which the experts should be affiliated may be designated by national decree containing general measures. If sufficient cellular material is available for that purpose, the examining judge will grant the request. The expert will present a report to the examining judge, stating the reasons. The first sentence of Article 235a(4), Article 235a(5) and Article 235a(6) apply likewise.
2. In the case of the application of paragraph 1, the defendant will be charged a part of the costs of the test, to be fixed, if this test confirms the test performed on the orders of the examining judge. Further rules in this regard may be imposed by national decree containing general measures.

Article 235d

With regard to the investigation by experts referred to in Articles 235a and 235c, the provisions of Section 6 of this Title apply likewise unless and in as far as Article 235a and 235c derogate from these.

Article 235e

Further rules may be imposed by or pursuant to a national decree containing general measures with regard to the method of implementing Articles 235a, 235b and 235c, in particular in relation to the way in which cellular material is taken from a person, the testing method and location, the appointment of the experts, the report to be presented by the experts, the way in which the right to a counter-test can be exercised and the storage of cellular material.

Article 235f

An order as referred to in Article 235b(1) may also be issued at the request of a victim in the case of a criminal offence in which there are indications that infection with the Human Immunodeficiency Virus may have taken place, with the aim of determining whether the defendant is a carrier of such a virus. By national decree containing general measures, it may be provided that this procedure will also be followed in order to determine whether the defendant is a carrier of another serious infection or disease designated in that national decree.

Article 235g

In the interests of the investigation, the examining judge may order, officially in the case of suspicion of a criminal offence for which pre-trial detention is permitted, that a test of cellular material be conducted with the aim of determining external features of the unknown defendant or the unknown victim. Article 235a(2) applies likewise. Further rules regarding the way in which the test is conducted may be imposed by national decree containing general measures.

Article 235h

1. In the interests of the investigation, the examining judge may order that a test of cellular material be conducted with the aim of determining kinship. Article 235a(2) applies likewise.
2. Cellular material taken pursuant to statutory provisions for the determination and processing of DNA profile may be used to determine kinship. Cellular material may be taken from a known person who is not suspected of a criminal offence and used for the determination of kinship only with his written consent.
3. The test referred to in paragraph 1 may be performed only in the event of a suspicion of an offence for which a punishment of eight years of imprisonment or more is prescribed according to the statutory description and one of the criminal offences described in Articles 2:26; 2:82; 2:134; 2:202; 2:203; 2:204; 2:208; 2:248; 2:264; 2:273 and 2:274 of the Criminal Code.
4. Further rules concerning the manner in which the test is conducted may be imposed by national decree containing general measures.

Section B2
Procedural defects

Article 235i
If the examining judge finds procedural defects in the criminal investigation, he shall order the correction of the defects if possible, indicating the actions to be repeated for that purpose, either officially or on the claim of the public prosecutor, or at the request of the defendant.

Section 3
The examination of the defendant

Article 236
The examining judge will order that the suspect be brought before him if he considers this necessary. He may order the summons of a suspect who is at liberty.

Article 237
(no text)

Article 238
(no text)

Article 239
1. If the defendant is unable to appear, his examination may be conducted at the location at which he is staying.
2. To that end, the examining judge may enter any location together with the persons that he designates, with the exception of a residential property, for entry of which the explicit consent of the occupant has not been granted.

Article 240
If the defendant is at liberty and does not appear in response to the summons, the examining judge may order that he be summoned once again. An order that he be brought forward may be added to this, but only if the presence of the defendant is necessary in connection with an investigation into his personality or his personal circumstances.

Article 241

1. If this is urgently necessary in the interests of the investigation, the examining judge may order that a defendant brought forward in accordance with Article 240 remanded in custody at a location to be designated by the examining judge for a maximum of 24 hours.
2. The reasons for this will be stated in the order.

Article 242

In his examination the defendant will be notified orally of the statements of witnesses and experts examined in his absence, in as far as, in the view of the examining judge, this is not prohibited in the interests of the investigation. If the defendant is denied knowledge of certain statements, the examining judge will notify him of this orally.

Section 4
The examination of the witness

Article 243

(no text)

Article 244

1. The examining judge examines the witness officially or, if the examination of the witness is ordered by the court, on the claim of the public prosecutor or at the request of the defendant or the legal counsel. He may order the subpoena of the witness officially or on the claim of the public prosecutor or at the request of the defendant.
2. In a decision stating the reasons, the public prosecutor may refuse to execute an order of the examining judge to issue a subpoena, as referred to in paragraph 1, if the public prosecutor has promised the witness that he will be heard only as a threatened witness or as a protected witness whose identity will be kept concealed. After notifying the examining judge and the defendant of the refusal in writing, without delay, the public prosecutor must submit the claim referred to in Article 261(1) or Article 261l(1), if he has not already done so.
3. Paragraph 2 does not apply if a witness is subpoenaed as a threatened witness or as a protected witness whose identity will be kept concealed.

Article 245

(no text)

Article 246

1. If the witness is unable to appear, his examination may take place at the location where he is staying.
2. To that end, the examining judge may enter any location together with the persons that he designates, with the exception of a residential property, for entry of which the explicit consent of the occupant has not been granted.

Article 247

1. Every person who is summoned as a witness is required to appear before the examining judge.
2. Officially or in response to the claim of the public prosecutor or the request of the defendant of his counsel, the examining judge may add an order that the defendant be brought forward to the subpoena or provide that the order be executed at a later date.

Article 248

1. If this is urgently necessary in the interests of the investigation, the examining judge may, officially, on the claim of the public prosecutor or at the request of the defendant or his counsel, order that a defendant brought forward in accordance with Article 247 be remanded in custody at a location to be designated by the examining judge for a maximum of 24 hours.
2. The reasons for this will be stated in the order.

Article 249

The witness declares that he will tell the truth, the whole truth and nothing but the truth.

Article 250

1. The examining judge swears in the witness, if:
   a. in his view, there are well-founded suspicions that the witness will not appear at the hearing or that his health or welfare will be placed at risk by making a statement at the hearing and the prevention of this risk outweighs the interest in examining him at the hearing;
   b. the submission of sworn translations is necessary in order to realise the extradition of the defendant;
   c. an agreement pursuant to Article 261g(2) or Article 261i(1) has been found to be lawful.
2. Without prejudice to the swearing in of a witness pursuant to paragraph 1 and Articles 261b(2) and 261m(2), the examining judge may, if he considers this necessary in connection with the reliability of the statement to be made by the witness, opt for a sworn statement.
3. If the examining judge considers this necessary in cases other than those referred to in paragraph 1a and 1b, he may swear in the expert on his examination.

Article 250a

1. The examining judge swears in the witness, who swears to tell the truth, the whole truth and nothing but the truth.
2. If, in the view of the examining judge, a witness with defective development or a mental disorder does not understand the significance of the oath, or does not do so adequately, or if the witness has not yet reached the age of 16, he will not be sworn in but will be exhorted to tell the truth, the whole truth and nothing but the truth.
3. The reason for the swearing in or exhortation will be reported in the record.

Article 251

The following persons may invoke rights of privilege with regard to making witness statements or answering certain questions:

a. direct relatives of the defendant or co-defendant by blood or affinity;
b. relatives of the defendant or co-defendant by blood or affinity in the collateral line, to the third degree;
c. the spouse or former spouse of the defendant or the co-defendant, or the person with whom the defendant or co-defendant cohabits or has cohabited on a permanent basis.

Article 252

1. Persons with confidentiality obligations pursuant to their status, profession or office may also invoke rights of privilege in relation to giving witness statements or answering certain questions, but only with regard to knowledge of matters with which they have been entrusted as such.
2. The provisions of paragraph 1 also apply to the judges, the members of the Public Prosecutors Office and other persons who are aware of the identity of a witness who is heard pursuant to the provisions of Article 261 and 261l. The invocation of rights of privilege is limited to questions aimed at revealing the identity of the witness.

Article 252a

1. Witnesses to whom data are entrusted in relation to professional reporting or gathering of information for that purpose, or reporting in relation to participation in the public debate, may invoke rights of privilege with regard to making witness statements or answering certain questions regarding the origins of those data.
2. The examining judge may reject the witness's invocation, as referred to in paragraph 1, if the examining judge finds that failure to answer questions would cause disproportionate harm to a more important social interest.

Article 253

The witness may invoke the rights of privilege in relation to answering questions put to him if this would expose him, or one of his or her relatives by blood or affinity in the first degree or in the collateral line to the second or third degree, or his or her spouse or the person with whom he or she cohabits or has cohabited on a permanent basis, to a criminal conviction.

Article 254

1. The witness must make his or her statement without the aid of a written account.
2. However, for exceptional reasons, the examining judge may allow the witness to make use of such accounts or written notes for his statement as the examining judge permits.

Article 255

1. If the witness refuses to answer questions put at his hearing without legal grounds to do so, or refuses to make the statement requested of him or to take the oath, the examining judge, if this is urgently necessary in the interests of the investigation, may, in response to the claim of the public prosecutor or at the request of the defendant or his counsel, order that the witness be placed in coercive detention.
2. The examining judge reports to the Court of Justice within 24 hours. The Court, after hearing the witness, orders within two times 24 hours that the witness will be placed in coercive detention or will be released from this.

Article 256

1. An order of the Court that a witness will be held in coercive detention is valid for no more than 12 days.
2. However, in response to the report of the examining judge, the claim of the public prosecutor or the request of the defendant or his counsel, the Court may renew that order by a maximum of 12 days on each occasion on which the witness is heard again.

Article 257

1. The examining judge orders that the witness be released from coercive detention as soon as the latter has complied with his obligations or his testimony is no longer necessary.
2. On the claim of the public prosecutor or at the request of the defendant or his counsel, or at the request of the witness, the examining judge may officially order the witness's release from coercive detention. The witness will be heard, or will at least be called to a hearing correctly. The detained witness may appeal to the Court against a rejection by the examining judge within three days.
3. In any event, the public prosecutor will order release from coercive detention as soon as the investigation by the examining judge ends.

Article 258

All decisions to order or renew coercive detention, or to reject a request of the witness for release from coercive detention will be accompanied by a statement of the reasons and will be served on the witness within 24 hours.

Article 259

1. During the coercive detention, the witness may consult a lawyer.
2. The lawyer has free access to the witness, may speak to him alone and exchange letters with him without the content being viewed by others, under the required supervision, in observance of the institutional regulations and without resulting in any delays to the investigation.
3. The public prosecutor will permit the lawyer to view the records of the hearing of witnesses on request.
4. In as far as this is not prohibited in the interests of the investigation, he may also permit the lawyer to view the other case documents on request.
5. If the public prosecutor refuses access, an appeal against this decision may be filed with the examining judge within three days of the notification.

Article 260

1. Unless they are authorised to make witness statements by Royal Decree, the King, the presumed successor of the King, their spouses, the Regent and the Governor will not be examined as witnesses.
2. Rules concerning modalities to be observed in the examination will be issued with the decree.

Section 5A
Threatened witnesses

Article 261

1. Officially, on the claim of the public prosecutor or at the request of the defendant or the witness, the examining judge will order that on the occasion of the examination of that witness, his identity will be concealed if:
   a. the witness or another person, with a view to the statement to be provided by the witness, can consider himself to be threatened to the extent that it must reasonably be assumed that there are reasons to fear for the life, the health or safety or the disruption of

the family life or socio-economic survival of the witness or that other person, and
   b. the witness has stated that, due to this threat, he does not wish to make a statement. In other cases, he rejects the claim.
2. The public prosecutor, the defendant and the witness will be given an opportunity to be heard in that regard. A lawyer will be assigned to a witness who does not yet have legal assistance.
3. The examining judge will not examine the witness while an appeal against his decision is possible and, if this is filed, until the appeal is withdrawn or a decision is handed down on the appeal, unless no delay in the examination can be tolerated in the interests of the investigation. In that case, the examining judge will keep the record of the examination of the witness in his possession until a decision is handed down on appeal.

Article 261a

1. The decision of the examining judge handed down pursuant to Article 261(1), must state the reasons, must be dated and signed and will be notified to the public prosecutor in writing without delay and served upon the defendant and the witness, stating the term within which and the manner in which the legal remedy available against the decision must be instituted.
2. The public prosecutor may file an appeal against the decision with the Court of Justice within three days of the date of the decision and the defendant and the witness may do so within three days of the decision being served. The Court shall hand down a decision at the earliest opportunity.
3. If the Court rules on appeal that the identity of the witness need not be concealed, he may only be heard without the application of the Articles of this Section. If the examining judge has already heard the witness, in observance of Articles 261b to 261e, he will ensure that the record of the examination of the witness is destroyed. The examining judge will draw up a record of this. Article 261e applies likewise.
4. If the Court decides on appeal that the identity of the witness must be kept concealed, the examining judge will examine the witness with the application of Articles 261b to 261e or where applicable, the record of the examination of the witness will remain part of the case documents.
5. After it has been ruled on appeal that the witness is a threatened witness, the members of the Court shall not participate in the examination at the hearing, on pain of nullity. Article 38(3) and 38(4) do not apply.

Article 261b

1. Prior to the examination of a threatened witness, the examining judge will take cognizance of his identity and report that he has done so in the record.
2. The witness will be sworn in or urged to speak the truth in accordance with the provisions of Articles 250 and 250a.
3. The examining judge will examine the threatened witness in such a manner that his identity is not revealed.

Article 261c

1. If required in the interests of concealment of the identity of the threatened witness, the examining judge may order that the defendant

or his counsel or both may not attend the examination of the threatened witness. In the latter case, the public prosecutor is also not authorised to attend the examination.
2. If the public prosecutor, the defendant or his counsel did not attend the examination of the witness, the examining judge will notify them of the content of the statement made by the witness at the earliest opportunity, offering them an opportunity to submit the questions that they wish the witness to be asked by means of telecommunications or, if this is not possible in the interests of protecting the identity of the threatened witness, in writing. Unless no delay can be tolerated in the interests of the investigation, questions may be submitted before the commencement of the examination.
3. If the examining judge prevents the notification of the public prosecutor, the defendant or his council of a reply given by the threatened witness, the examining judge will report in the record that the threatened witness answered the question put.

Article 261d

During the examination, the examining judge will investigate the reliability of the threatened witness and will account for this in the record.

Article 261e

1. By agreement with the public prosecutor as far as possible, the examining judge will take the measures that are reasonably necessary to conceal the identity of the threatened witness and of a witness regarding whom a request or claim, as referred to in Article 261(1), has been submitted, for as long as no final decision has been handed down on this.
2. For that purpose, he is authorised to omit data concerning the identity of the witness from case documents or to anonymize case documents.
3. The examining judge and the clerk of the court sign for or certify the anonymization.

Section 5B
Pledges to witnesses

Article 261f

1. If the public prosecutor, with the prior written consent of the Attorney-General, intends to agree a deal with a defendant who is willing to make a witness statement in the criminal proceedings against another defendant in exchange for a pledge of the public prosecutor, he will notify the examining judge of this. The proposed deal relates only to making a witness statement concerning a criminal investigation into offences as described in Article 100(1), committed in an organised manner and in view of their nature or relationship with other suspected crimes committed by the defendant, give rise to a serious breach of legal order, or crimes for which, according to the statutory description, a prison sentence of eight years or more is imposed. In no case can the public prosecutor promise full immunity.
2. A defendant who consults with the public prosecutor on reaching an agreement on the basis of paragraph 1 may provide for the support of a lawyer. A lawyer will be assigned to a defendant who does not yet have legal aid.
3. The proposed agreement is recorded in writing and contains the most accurate description possible of:

a. the offences concerning which and if possible, the defendant against whom the defendant, also a witness, referred to in paragraph 1 is willing to make a statement;
b. the criminal offences for which the defendant will himself be prosecuted and to which the pledge relates;
c. the conditions imposed on the defendant who is also a witness and with which he is willing to comply;
d. the contents of the pledge of the public prosecutor.

Article 261g

1. The examining judge will hear the defendant, who is also a witness, on the proposed deal and will then assess the legality of the agreement referred to in Article 261f(1). The public prosecutor will provide the examining judge with the information that the latter requires for the assessment. In his assessment, the examining judge will take account of the urgent need and the interest in obtaining the statement to be made by the defendant who is also a witness. He will also present an opinion on the reliability of the witness.
2. The examining judge records his findings in a decision. If he finds the agreement to be lawful, it will be realised. The decision of the examining judge will state the reasons, will be dated and signed and the public prosecutor and the defendant who is also a witness will be notified of the decision in writing without delay.
3. The public prosecutor may file an appeal with the Court against the decision of the examining judge finding the proposed deal to be unlawful within 14 days of the date of the decision. The Court shall hand down a decision at the earliest opportunity.
4. The public prosecutor will not add the statements and other objects from which data can be derived that were obtained by making a deal, as referred to in Article 261f, to the case documents until the examining judge has found the agreement to be lawful.

Article 261h

1. After the agreement has been found to be lawful, the defendant will be heard as a witness, as referred to in Article 261f(1), by the examining judge.
2. This witness may not be heard with the application of Articles 261 to 261e.
3. As soon as the interests of the investigation permit, the examining judge will notify the defendant against whom the statement was made of the realisation of the agreement and its contents, with the proviso that no notice need be given of the measures referred to in Article 261k.
4. In the interests of the investigation, the examining judge may, officially, on the claim of the public prosecutor or at the request of the witness, order that the identity of the witness be concealed from the defendant for a particular term. The order will be withdrawn by the examining judge before the end of the investigation.

Article 261i

1. Articles 261f to 261h apply likewise if a convicted offender is willing to make a witness statement in exchange for a pledge of the public prosecutor.
2. If the proposed agreement is set out in writing, the requirements of Article 261f(3)(b) do not apply.

Article 261j
Further rules concerning the manner of execution of this section may be imposed by or pursuant to a national decree containing general measures.

Section 5C
Measures for the protection of witnesses

Article 261k
1. Specific measures may be taken for the actual protection of witnesses as referred to in the Articles 261, 261f, 261i and 261l, in a manner to be determined by or pursuant to a national decree containing general measures.
2. Paragraph 1 applies likewise to a person who has assisted the authorities responsible for the detection and prosecution of criminal offences, in as far as an urgent need for this arose as a result of the assistance and related government action.

Section 5D
Protected witnesses

Article 261l
1. Either officially, in response to the claim of the public prosecutor or at the request of the defendant or of the witness, the examining judge shall order that a witness will be heard as a protected witness if it should reasonably be assumed that this is required in the interests of national security or the security of another part of the Kingdom.
2. The public prosecutor, the defendant and the witness will be given an opportunity to be heard in that regard.
3. In his record, the examining judge reports the reasons for the application referred to in paragraph 1.
4. No appeal is permissible against a decision on the grounds of paragraph 1.

Article 261m
1. Either officially or on the claim of the public prosecutor or at the request of the defendant or of the witness, the examining judge shall order that on the occasion of the examination of a protected witness, the witness's identity will be concealed if required in relation to a serious interest of the witness or another party or in the interests of the security of the Country or another part of the Kingdom of the Netherlands. In that case, he shall inform himself before the examination of the identity of the protected witness and will report that he has done so in the record.
2. The witness will be sworn in or summoned in accordance with Article 250a.
3. If the examining judge issues the order referred to in paragraph 1, he shall examine the protected witness in such a manner that the witness's identity remains concealed.

Article 261n
The examining judge may grant special permission to attend the examination of a protected witness.

Article 261o

1. If required by an interest as referred to in Article 261m(1), the examining judge may decide that the defendant or his counsel or both may not attend the examination of the protected witness. In the latter case, the public prosecutor is also not authorised to attend.
2. The examining judge will ensure that the record of the examination of the protected witness does not contain any statements that are counter to the interests referred to in Article 261m(1).
3. With the consent of the witness, the examining judge shall issue the record to the public prosecutor, the defendant and to his counsel. The witness may withhold his consent only if this is required in the interests of national security or of another part of the Kingdom. If the witness withholds his consent, the examining judge shall ensure that the record of the examination and all other information concerning the examination are destroyed immediately. The examining judge will draw up a record of this.
4. The examining judge shall offer the public prosecutor, the defendant or his counsel, if they did not attend the examination of the witness, an opportunity to submit the questions that they wish to be put to the witness by means of telecommunication or, if this is not consistent with an interest as referred to in paragraph 1, in writing. Unless, in the interests of the examination, no delay in the examination can be tolerated, questions may be submitted before the start of the examination.
5. Article 261c(3) applies likewise.

Article 261p

During the examination of the protected witness, the examining judge shall investigate the reliability of the statement of the protected witness and will account for this in the record.

Article 261q

1. If the examining judge issues the order described in Article 261m(1), he shall take the measures that are reasonably necessary to keep the identity of a protected witness and the person concerning whom a request or claim, as referred to in Article 261m(1) is submitted, either officially or on the claim of the public prosecutor or at the request of the witness to be questioned.
2. Article 261e(2) and 261e(3) applies likewise.

Article 261r

1. With the consent of the protected witness, the examining judge may add the record of the hearing to the case documents.
2. Apart from the first sentence, Article 261o(3) applies likewise.

Section 6
Experts

Article 262

1. In the interests of the investigation, the examining judge may officially appoint one or more experts on the claim of the public prosecutor or at the request of the defendant.
2. If the defendant requests the designation of an expert, he may recommend one or more persons as experts. Unless this is counter to the interests of the investigation, the examining judge shall select one or more experts from the persons recommended by the defendant.

Article 263

1. The examining judge shall notify the public prosecutor and the defendant of his decision to appoint an expert and of the order issued to the expert.
2. In the interests of the investigation, the examining judge may defer the notification referred to in paragraph 1, officially or on the claim of the public prosecutor, until this is no longer counter to the interests of the investigation.
3. The examining judge may order an additional investigation, officially, on the claim of the public prosecutor or at the request of the defendant. The examining judge will notify the expert, the public prosecutor and the defendant of this.
4. The defendant who is notified of the assignment of the expert is authorised to designate his own expert, who has the right to attend the examination of the expert, to provide the necessary indications and to make comments. He shall notify the examining judge and the public prosecutor of this within a week of the date of the notice pursuant to paragraph 1.

Article 264

1. Before presenting his report, the expert may contact the examining judge for clarification of his assignment. The examining judge shall notify the public prosecutor and the defendant of his reply to this. The examining judge may also order an oral meeting with the expert. He shall grant the public prosecutor and the defendant an opportunity to attend.
2. In the interests of the investigation, the notice to the defendant referred to in paragraph 1 may be deferred; for the same reason, the examining judge may waive the possibility of the attendance of the public prosecutor and defendant at the meeting with the expert.

Article 265

1. After the expert has sent his report to the examining judge, the examining judge sends a copy of this to the public prosecutor and the defendant. Article 263(2) applies likewise.
2. A defendant who has been notified of the result of the investigation is authorised to designate an expert, who has the right to examine the report sent.

Article 266

1. Officially, on the claim of the public prosecutor or at the request of the defendant, the examining judge may order the same expert to conduct a further investigation or assign investigations to one or more other experts if the expert's report gives cause for this. Articles 264 and 265 apply likewise.
2. The examining judge will provide the new expert appointed on the basis of paragraph 1 with a copy of the report.

Article 267

1. The examining judge may examine the expert, officially, on the claim of the public prosecutor or at the request of the defendant. The examining judge may order that he be summoned.
2. Articles 244 to 247 and the Articles 249 to 250a apply likewise with regard to the expert and his examination. The expert declares that his

or her statements are truthful and made in good conscience. The examining judge swears in the expert, who swears to make his statement truthfully and in good conscience.

Article 268
(no text)

Article 269
(no text)

Article 270
(no text)

Article 271
The examining judge may impose a confidentiality obligation on the experts.

Section 7
Closure of the investigation

Article 272
If the examining judge has completed the investigative actions or if no grounds to continue the investigation exist, the investigation will be closed. He sends the documents relating to this to the public prosecutor and also sends copies of the defendant.

Article 273
1. If the public prosecutor notifies the examining judge in writing that he waives prosecution, the examining judge will terminate the investigation.
2. A public prosecutor who intends to summon the defendant while the examining judge is still conducting investigative actions shall notify the examining judge of this at the earliest opportunity. The examining judge may close the investigation, if necessary after hearing the public prosecutor and the defendant or his counsel. If the examining judge continues his investigation, he shall have a record included in the case file, reporting that the investigation on the basis of this Title is not yet complete.

Article 274
(no text)

TITLE IV
Decision concerning prosecution

Article 275
1. If, on the basis of the preliminary investigation instituted, the public prosecutor takes the view that prosecution must take place, he shall commence this at the earliest opportunity.
2. The public prosecutor may, while imposing certain conditions, decide to postpone the decision as to whether prosecution should take place for a term to be set.
3. Until the substantive examination at the hearing has begun, prosecution may be waived, including on grounds based on the general interest.

Article 276

1. If the public prosecutor waives prosecution, he shall report this to the defendant in writing without delay.
2. The non-prosecution notice shall be served on the defendant.
3. In the case of prosecution for a criminal offence, the public prosecutor will inform direct interested parties that are known to him, in writing, of the non-prosecution notice without delay.
4. If an order pursuant to Articles 15 to 29 is requested or issued in the case, the public prosecutor will not issue a notice that prosecution has been waived until after the order has been issued by the Court of Justice.
5. To that end, the public prosecutor shall send the Court of Justice the case documents, accompanied by a report containing the grounds for that notice.

Article 277

(no text)

Article 278

(no text)

Article 279

1. Through a notice of non-prosecution, the case will be closed.
2. However, if the Court of First Instance does not have jurisdiction, the investigation may be continued in the Court of First Instance of another Country. This is also possible if the case is combined with a criminal case that is under investigation in that other Country.

Article 280

If the case is not prosecuted on the grounds of the:

a. incompetence of the court to hear the case,
b. inadmissibility of the public prosecutor,
c. non-criminality of the offence or of the defendant,
d. insufficient evidence of guilt,

these grounds will be reported in the notification.

Article 281

(no text)

Article 282

1. After the discontinuation of criminal proceedings or after being served the decision containing the declaration that the case has been closed or the non-prosecution notice, in the latter case subject to Articles 25, 29 of 279(2), the defendant may not be brought before the court again in relation to the same offence unless new objections become known.
2. Only statements of witnesses or of the defendant and documents, statements and records that became known at a later date or were not investigated can qualify as new objections.
3. In that case, the defendant may not be summoned for a hearing of the court of first instance until after criminal proceedings are instigated in relation to the new objections.
4. A criminal investigation, as referred to in paragraph 3, will not be instituted without the authorisation of the examining judge, granted on

the claim of the public prosecutor responsible for the investigation of the criminal offence.

Article 283
Through the non-prosecution notice, except in the case referred to in Article 279(2), the discharge decision or the decision declaring the case closed, every pre-trial detention order is withdrawn by law. This will be reported in the notification or the decision.

BOOK FIVE
The hearing

TITLE I
Commencing action for hearing of the case in the first instance

Article 284
1. The case will be brought by means of a summons served on the defendant via the public prosecutor. The legal proceedings commence at the time of the service of the summons.
2. On the service of the summons, as well as in a summons, as referred to in Article 414, the authorisation granted to the defendant in Article 1:150 of the Criminal Code is stated.
3. The court will decide the date of the hearing on the recommendation of the public prosecutor. On determining the date of the hearing, or thereafter, it may order the defendant to appear in person; to that end, the court may also order that the defendant be brought forward. The court may also order that a witness regarding whom it can reasonably be assumed, on the basis of facts and circumstances, that he does not intend to comply with a subpoena to appear at the hearing be brought forward. The court may also order the public prosecutor to perform or provide for the performance of investigations, described in more detail, as well as to add data carriers and documents to the case documents or to submit documentary evidence.

Article 285
1. The summons contains a description of the offence with which the defendant is charged, stating the estimated time and location at which it was allegedly perpetrated, such that the defendant can reasonably understand from this what he is suspected of; it also states the statutory regulations making the offence a crime.
2. The summons also contains a report on the circumstances in which the criminal offence was allegedly committed.
3. If the defendant is in pre-trial detention pursuant to a pre-trial detention order, the validity of which can no longer be renewed, the description in that order will suffice for the statement of the offence.

Article 286
Criminal offences that are brought at the same hearing and between which a relationship exists or which were committed by the same person will be jointly made subject to a hearing by the count if this is in the interests of the investigation.

Article 287

1. The public prosecutor is authorised to call witnesses, experts and interpreters to the hearing, in writing.
2. In as far as possible, the defendant's summons will state the names, occupations and places of residence or accommodation, or, where these are not known, the most accurate possible identification of the witnesses and experts called up by the public prosecutor. The summoning of an interpreter will also be reported.
3. The defendant will be notified here that he has the right to arrange to call witnesses and experts or to bring them to the hearing; he will also be referred here to the provisions of Articles 289(2), 293 and 308(1).
4. If the defendant does not master the Dutch language or does not do so adequately, he will be notified in writing in a language that he understands of the place, date and time at which he must appear at the hearing, together with a brief description of the offence, and will be informed of the content of the notices referred to in paragraphs 2 and 3.

Article 287a

1. The public prosecutor is authorised to summon victims or their surviving dependants to attend the hearing, in writing.
2. If the persons referred to in Article 70e(2) to 70e(5) and those who have stated that they wish to make use of their right to speak on the grounds of Article 70e(6) and 70e(7) request to be called in order to exercise their right to speak, the public prosecutor will grant that request.
3. The defendant will be notified of the summons of a person wishing to exercise their right to speak and of the injured party, in as far as this has not yet taken place pursuant to Article 70g(2).

Article 288

1. The public prosecutor will notify every person who has reported as an injured party in relation to the offence for which the defendant is charged, in accordance with Article 70f(1), of the date, time and location of the hearing.
2. If possible, the notification takes place at least three days prior to the date of the hearing. It shall contain a brief indication of the charge. In the notification, the injured party will also be referred to the provisions of Articles 374 to 380 relevant to that party.

Article 289

1. The defendant has the right to call witnesses and experts for the hearing.
2. To that end, if there are at least 14 days between the date on which the summons is served upon the defendant and the date of the hearing, he shall notify the public prosecutor of those persons at least seven days prior to the hearing, in person at the offices of the public prosecutor or in writing. If the summons is served later than on the 14th day prior to the hearing, the term ends on the fourth day after that of the service of the summons but no later than the third day prior to that of the hearing. In the notice, the defendant shall state the names, occupations and places of residence or accommodation or, if these are not known, shall identify the witnesses and/or experts as accurately as possible. With a written notice, the date of receipt of the document that is recorded immediately afterwards is deemed to be the date of the notice.

3. The court may order the public prosecutor to arrange for witnesses and experts to be called to the hearing.
4. The public prosecutor will call the witnesses or experts notified or ordered, in observance of paragraphs 2 and 3, without delay unless, in his view, there are urgent grounds to reject their subpoena. In the latter case, the public prosecutor refers the defendant to the provisions of Article 318(3).

Article 289a

1. In a decision stating the reasons, the public prosecutor may refuse to call a witness or expert named or ordered by the defendant or the court if he:
   a. considers it improbable that the witness or the expert will appear at the hearing within an acceptable term;
   b. takes the view that the health or welfare of the witness or expert will be endangered by making a statement at the hearing and the prevention of this risk outweighs the interest of being able to question the witness or expert at the hearing;
   c. takes the view that this cannot reasonably be expected to harm the defendant's defence.
2. By a decision, stating the reasons, the public prosecutor may refuse to call a witness or expert named or ordered by the defendant or the court or refuse to execute an order of the court to subpoena the witness:
   a. if the witness is a threatened witness or a protected witness whose identity is concealed, or
   2. if the public prosecutor has promised the witness that he will be examined only as a threatened witness or as a protected witness whose identity will be kept concealed.
3. The court and the defendant will be notified of the refusal in writing without delay.

Article 290

1. A term of at least seven days must be observed between the date on which the summons is served upon the defendant and the hearing, or a term of at least four days in the event of pre-trial detention as referred to in Article 101(2)(d), or if the examining judge issues orders for enforcement of public order in accordance with Title VII, Book 7. If the defendant is summoned in a foreign country on the same island, or in another Country in which the court sits, the term of the summons will be extended by seven days. The term amounts to at least six weeks if the defendant resides elsewhere.
2. With the consent of the defendant, this term may be reduced, provided that such consent is shown by a statement to be made at the registry of the Court of First Instance to which the defendant is summoned; Articles 446 and 447 apply likewise. If the summons is served by a bailiff or police officer, the defendant may also provide for the statement to be included in the memorandum of service; he must sign the statement; if he is not able to sign, the reason or impediment shall be reported in the memorandum.
3. In the event of the voluntary appearance of the defendant in response to a summons served in contravention of the provisions of this Article, at the request of the defendant and in the interests of his defence, the court will order the suspension of the investigation to a particular day, unless the court takes the view, in a decision stating the reasons, that

the defendant's defence cannot reasonably be deemed to be harmed if the investigation is continued.

Article 291

1. Until the substantive investigation at the hearing has begun, the public prosecutor may withdraw the summons. He shall notify the defendant and the injured party of this in writing.
2. The public prosecutor shall ensure that the witnesses and experts called are notified of the withdrawal in a timely manner.
3. If prosecution is waived on or after the withdrawal of the summons, the public prosecutor shall notify the defendant in writing, without delay, that he will not be prosecuted in relation to the offence to which the summons relates. Articles 279 and 280 apply.

Article 292

1. If the summons is withdrawn without the defendant being served notice of non-prosecution, the court, at the request of the defendant, will set a term within which the public prosecutor must either issue a summons or a notice of non-prosecution. The defendant will be heard in relation to the request.
2. The court, on the claim of the public prosecutor, may renew the term for a particular period on each occasion.

TITLE II
Appeal against the subpoena

Article 293

1. The defendant may file an appeal against the subpoena with the Court of First Instance within five days of the service of the summons. The appeal must be accompanied by a statement of the reasons.
2. If a final decision on the entire appeal is not handed down before the date for which the defendant is summoned, the Court of First Instance will postpone the commencement of the handling at the hearing for a fixed or indefinite term. Articles 314, 362 and 363 apply likewise.

Article 294

1. The Court will open an investigation into the merits of the appeal. The defendant and the public prosecutor will be heard.
2. Before taking a decision, the Court of First Instance may provide for the institution of an investigation by the examining judge and order the relevant documents to be submitted. This investigation will be conducted in accordance with the provisions of Sections 2 to 6 of Title III of Book 4.

Article 295

1. If the Court of First Instance before which the defendant is summoned does not have jurisdiction, if possible, the Court will refer the case to the Country in which the courts do have jurisdiction.
2. If the public prosecutor is inadmissible or there is insufficient evidence of guilt in relation to the offence to which the summons relates, the Court of First instance will discharge the defendant from prosecution in relation to the entire charge or for a part of the charge to be defined in more detail in the decision.

3. In all other cases, the Court will declare the defendant inadmissible or the note of objection unfounded, if necessary indicating the changes that must be made to the charge.
4. The defendant will be notified of the decision of the Court without delay. If the defendant appears in the Council Chamber, he may be notified of the decision.
5. If the decision in which the defendant is discharged from prosecution for all charges has become final, a summons already issued shall lapse. 5.If the decision in which the defendant is discharged from prosecution for part of the charges has become final, the public prosecutor will harmonise the summons with that decision.

Article 296
No appeal is permitted against a summons issued after an order pursuant to Article 25(1) and Article 29 unless new facts or circumstances become known.

Article 297
If prosecution of the case is ruled out, Articles 282 and 283 apply.

Article 298
In the event of a discharge from prosecution, the Public Prosecutors Office may file an appeal with the Court of Justice within 14 days of the decision.

TITLE III
Commencing action for hearing on appeal

Article 299
1. The case will be brought for hearing on appeal by a summons which will be served on the defendant via the public prosecutor. The appeal proceedings commence at the time of the service of the summons.
2. Articles 287 and 287a apply with regard to the summons, unless the defendant is referred to the provisions of Article 301 therein, instead of the provisions of Article 289(1).
3. Different cases may be joined on the grounds referred to in Article 286.
4. The head of the bench shall decide the date of the hearing on the proposal of the Attorney-General.

Article 300
1. A term of at least seven days must have passed between the date on which the summons was served upon the defendant and that of the hearing. If the defendant is summoned in a foreign country on the same island, or in another Country in which the court sits, the term of the summons will be extended by seven days. The term amounts to at least six weeks if the defendant resides elsewhere. Article 290(2) and 290(3) applies.
2. Article 288 applies likewise, with the proviso that the notice is always sent to the injured party who joined the proceedings in the first instance.
3. If the victim or the surviving dependants availed themselves of their right to make statements in the first instance pursuant to Article 70e, the Attorney-General will notify them in writing of the date and time at which the case will be handled in the hearing on appeal.

Article 301

1. The Attorney-General and the defendant may arrange to call witnesses and experts who have been examined and new witnesses and experts for the hearing and in the first instance. The may also submit new documents and documentary evidence.
2. Articles 289(2) to 289(4), 289a and 290 apply likewise.

TITLE IV
Handling at the hearing

Section 1
General provision

Article 302

The provisions of the following sections of this Title apply to the handling at the hearing in the first instance and on appeal, with the proviso that, where reference is made to the Court and the head of the bench, this refers to the presiding judge for the hearing in the first instance and where reference is made to the Attorney-General, this refers to the public prosecutor for the hearing in the first instance, in as far as none of the other provisions show otherwise and without prejudice to the provisions of Title IV of this Book and of Titles I and II of Book 7.

Section 2
Investigation of the case at the hearing

Article 303

The investigation of the case at the hearing will commence after the head of the bench has provided for the case to be called.

Article 304

A judge who has conducted any investigation in the case as the examining judge will participate in the investigation at the hearing only with the consent of the Attorney-General and the defendant.

Article 305

1. Except in exceptional cases, at the discretion of the head of the bench, persons who have not yet reached the age of 12 will not be permitted to attend a public hearing as a member of the public. The head of the bench is authorised to bar members of the public if they have not yet reached the age of 16, with the exception of victims of the offence charged, as referred to in Article 70e, aged 12 to 16, who wish to attend the hearing.
2. In the event of doubts concerning age, it must be made plausible, to the satisfaction of the head of the bench, that the person requiring admission has reached the age of 12 or 16 respectively.

Article 306

1. A defendant who fails to appear may provide to be defended at the hearing by his counsel, who shall explicitly declare that he is authorised for that purpose. The Court shall consent to this, without prejudice to the provisions of Article 308(1).
2. A defendant who does not appear may arrange to be represented at the hearing in relation to a violation by a representative authorised in

writing for that purpose by a special power of attorney. The Court shall consent to this, without prejudice to the provisions of Article 308(1).
3. The handling of the case against a defendant in accordance with paragraphs 1 and 2 applies as a defended action.

Article 307

The court will find against a defendant who does not appear at the hearing in response to a lawful summons to do so and, in the cases provided for by statutory regulations, does not provide to be defended or represented by an authorised representative, by default.

Article 308

1. If the defendant does not attend the hearing, and if there are grounds to assume that he will not appear in response to a repeat summons, the Court may order on commencement and during the course of the investigation that the defendant shall appear at the hearing at a time to be fixed; the Court may also order that he be brought forward.
2. If the defendant again fails to appear at the hearing at the fixed time, the Court will consent to the procedure referred to in Article 306, if applicable, or will grant the claim by default if this has not already taken place, unless it orders that the defendant be brought forward at a later date; the investigation will then be continued.
3. If the defendant appears at the hearing at the later date fixed, the award of the case against him by default shall lapse and the investigation at the hearing will recommence.

Article 309

1. The hearing shall be conducted in open court. From the time at which the case is called, the Court may order full or partial handling behind closed doors. This order may be issued in the interests of morality, public order, national security and if the interests of minors or respect for the personal privacy of the defendant, other participants in the proceedings or parties otherwise involved in the case require this. Such an order may also be issued if, in the view of the Court, a public hearing would harm the interests of good administration of justice.
2. An order as referred to in paragraph 1 will be issued by the Court officially, on the claim of the Public Prosecutors Office or at the request of the defendant or other participants in the proceedings. The Court will not issue the order until the Public Prosecutors Office has heard the defendant and the other participants in the proceedings in that regard, in camera if necessary.
3. The decision to issue the order referred to in paragraph 1 will be reported in the record of the hearing, stating the reasons.
4. The head of the bench may grant special permission to attend the non-public hearing. The victim or surviving dependants will be granted access unless the head of the bench decides otherwise for exceptional reasons.

Article 310

1. The head of the bench leads the investigation at the hearing and issues the necessary orders for this. He may charge a member of the court that he designated to act in his place to conduct the examination. That member will then exercise the powers assigned to the head of the bench in this examination.

2. He shall ensure that no questions are put with the purport of acquiring statements that cannot be said to have been made freely.

Article 311
No-one shall sit on the bench of the Court apart from the judges and the Clerk of the Court.

Article 312
1. If criminal offences for which joinder should have taken place are brought separately in the same hearing, the Court will order that the joinder nevertheless takes place.
2. If criminal offences between which a relationship exists or that were committed by the same person are brought at different hearings, but the handling of which is resumed or commenced at the same hearing, the Court will also order the joinder if this is in the interests of the investigation.
3. The Court will order the division of joined cases if it does not consider that any relationship exists between those cases or if it does not consider the joinder to be in the interests of the investigation.

Article 313
1. The investigation will continue without interruption.
2. However, the Court may interrupt the investigation on the grounds of its scale or duration, or in order to take a rest.
3. If this is required in the interests of the investigation, the Court is also authorised to order the suspension of the investigation, fixing a term or otherwise.
4. If necessary, a suspension fixing a term may be renewed, for a specific term on each occasion.
5. The reasons for the interruption or suspension will be stated in the record.

Article 314
If the defendant is held in pre-trial detention, the Court will suspend the examination at the hearing for a fixed term only. As a rule, the term of the suspension will not be set at more than two months. For urgent reasons to be reported in the record, the Court may set a longer term, which may in no case exceed four months.

Article 315
1. After the commencement of the investigation, the head of the bench will establish the identity of the defendant or, if there is more than one defendant, of each of those defendants, by asking their surnames and first names, dates of birth, places of birth, occupations and places of residence or accommodation or through the presentation of an identity document.
2. He will warn the defendant to be attentive to what he will hear.
3. He will then notify the defendant of his right to remain silent and if the defendant does not have a legal counsel, of his right to be supported by a legal counsel.

Article 316
1. In the cases in which the nullity of the summons, the non-competence of the Court or the inadmissibility of the Attorney-General may be

shown without the investigation of the case itself, the defendant is authorised to present and explain that defence immediately after the examination referred to in Article 315.
2. The Attorney-General may reply to this.
3. The defendant may again address the court and if the Attorney-General addresses the court thereafter, the defendant may do so once again.
4. The Court will commence deliberations and hand down a judgment.
5. If the defence is found to be untimely or unfounded, the investigation of the case itself will be continued without delay.
6. The Court may also rule officially on the nullity of the summons, the non-competence of the Court, the inadmissibility of the Attorney-General without investigation of the case or rule on the inadmissibility of the appeal on appeal, after having heard the Attorney-General and the defendant.

Article 317

If, during the proceedings, the Attorney-General, either in response to a defence as referred to in the Article 316(1) or in response to the hearing by the court pursuant to Article 316(6), takes the view that the summons should be changed, Articles 355 and 356 apply.

Article 318

1. The Attorney-General will present the case and submit a list of the seized objects that have not been returned.
2. He will also submit a list of the witnesses and experts and the victims or their surviving dependants who have been called.
3. Immediately after the list has been submitted, the defendant, if the Attorney-General has failed or refused to call one of the witnesses or experts that he has listed, may request the Court to order the summons of the witnesses or experts concerned.
4. The Court will order that the witness or expert reported in accordance with Article 289(2), whose summons has been omitted or refused, be called to the hearing at a time to be determined by the Court, unless:
   a. it is deemed to be implausible that the witness or expert will appear at the hearing within an acceptable term;
   a. there are well-founded suspicions that the health or welfare of the witness or expert will be placed at risk by making a statement at the hearing and the prevention of this risk outweighs the interest in being able to examine the witness at the hearing;
   c. the defendant's defence cannot reasonably be deemed to be harmed as a result.
5. The witness or expert that the Court orders to be summoned will be included in the list of witnesses and experts.
6. In response to the claim of the Attorney-General or at the request of the defendant, witnesses or experts that are not included in the list but that are present at the hearing may, on the orders of the head of the bench, be included in the list by the Clerk of the Court unless this is waived on the grounds referred to in paragraphs 4b and 4c, with the proviso that the ground referred to in paragraph 4c will be extended by the interest in prosecution of the Public Prosecutors Office.
7. If the Attorney-General, pursuant to Article 289a(2)(b), has refused to call a witness named by the defendant or to execute an order of the court to summon a witness and no decision on the grounds of Article 261(1) or of Article 261m(1) has been issued in relation to that witness, the Court will hand the documents to the examining judge in order to

provide for the examination of the witness. In the case of one of the witnesses reported by the defendant, the preceding sentence will not apply if the Court, in a decision stating the reasons, takes the view that the absence of the examination cannot reasonably be deemed to harm the defence of the defendant. Immediately after handing the documents to the examining judge, the Attorney-General must submit a claim, as referred to in Article 261(1) or Article 261l(1), after all. Article 359 applies likewise.

Article 319

If the defendant is held in pre-trial detention pursuant to an arrest or detention order, the validity of which can no longer be renewed pursuant to Article 98(3), the public prosecutor may, in the proceedings in the first instance, claim suspension of the investigation at the hearing immediately after presenting the case. He shall notify the defendant of his intention to do so in writing, in a timely manner. In that case, the submission of the lists referred to in Article 318(1) and 318(2) may be stayed until the investigation at the hearing is resumed.

Article 320

With the consent of the Attorney-General and the defendant, the head of the bench may allow the witness to remove himself until a particular time before making his statement.

Article 321

1. The witnesses who have appeared will be heard unless this is waived with the consent of the public prosecutor and of the defendant or on the grounds referred to in Article 318(4)(b) and 318(4)(c) or if it can reasonably be assumed that the waiver will not harm the prosecution by the Public Prosecutors Office.
2. If a witness included in the list has not appeared, Article 318(3) *et seq.* applies likewise.

Article 321a

1. The head of the bench will determine the sequence in which he will examine or hear the witnesses, experts and the victim or the surviving dependants who have appeared. If he considers that there are grounds to do so, he will take measures to ensure that these participants in the proceedings are taken to separate rooms.
2. The head of the bench will provide for correct treatment of the victim or the surviving dependants or their representatives as referred to in Article 70e(6) or 70e(7).

Article 322

1. The head of the bench will order that the witnesses move to the room intended for them, with the exception of the first that he calls before the Court.
2. If necessary, he will take measures to prevent the witnesses from consulting each other before they make their witness statements or that they can become aware of statements presented earlier at the hearing by other witnesses and the defendant.

Article 323

1. The head of the bench shall ask the witness for his surname and first names, age, occupation and place of residence or accommodation and

to state his relationship to the defendant. If there are well-founded suspicions that, in connection with making his statement. a witness will experience difficulties or constraints in the performance of his profession, the Court may decide that questioning on a particular fact, as referred to in the preceding sentence, will be omitted. The Court shall take the measures that are reasonably necessary to prevent these data from being disclosed.
2. The head of the bench then swears in the witness. Article 250(2), concerning the replacement of swearing in by an exhortation, applies likewise.
3. Articles 251 to 254 apply with regard to the hearing of the witness and his rights of privilege.

Article 324
(no text)

Article 325
1. The witness will first the examined by the person who called him or at whose request he was called. This will be followed by questioning by the defendant or his counsel or by the Attorney-General, in the sequences and in the manner to be determined by the head of the bench.
2. The head of the bench and the other judges may put questions at any time, preferably after the examination referred to in paragraph 1. If necessitated in the interests of good procedural order, the head of the bench may terminate the examination on the basis of paragraph 1 and question the witness himself.
3. In any event, the head of the bench will grant the defendant and his counsel an opportunity to state what can serve as a defence against the witness and his statement and will grant the Attorney-General an opportunity to comment.

Article 326
During the remainder of the investigation, the head of the bench, the judges, the Attorney-General and the defendant may still put questions to the witness. Article 325(3) applies.

Article 327
As far as possible, the witness must explicitly state the reasons for his knowledge in his statement.

Article 328
Officially or in response to a claim of the Attorney-General or a request of the defendant, the head of the bench may prevent a response by the witness to any question put by the defendant or his counsel or by the Attorney-General. Any reply that may have been made to such a question will be disregarded.

Article 329
1. If, during his examination, the witness refuses to answer the questions put to him without legal grounds or to take the oath or pledge if this is required of him, the Court, if this is urgently necessary in the interests of the investigation, will order that he be placed in coercive detention and will be brought before the Court again at a fixed time.

2. The order will not be issued until the witness brought forward by the defendant or his lawyer in his defence has been heard. It is valid for no more than 30 days. No legal remedy is permitted against this order.
3. The Court orders the dismissal of the witness from coercive detention as soon as he has complied with his obligations or the investigation is closed at the hearing. However, it is authorised to order such dismissal at every stage of the investigation, including at the request of the witness.
4. Articles 258 and 259 apply.
5. Within three days of the service of a decision handed down in the case in the first instance to reject a request to discharge the witness, the witness may file an appeal against this decision with the Court The witness will be heard, or at least will be correctly called for that purpose.

Article 330

1. After making his statement, the witness remains in the courtroom unless the Court, with the consent of the Attorney-General and of the defendant, grants him permission to leave, if necessary with an order to return to the courtroom at a time to be fixed.
2. By way of derogation from the provisions of paragraph 1, the consent of the defendant is not required if there is a suspicion regarding the witness as referred to in the second sentence of Article 323(1).

Article 331

1. Officially or on the claim of the Attorney-General or at the request of the defendant, the head of the bench may place witnesses in opposition to each other.
2. In the same way, he may order that, after making a witness statement, one or more witnesses will leave the courtroom and that one or more of them will be readmitted in order to be heard once again, individually or in each others presence.

Article 332

1. In the same way as that referred to in Article 331, the head of the bench may order that one or more defendants leave the courtroom in order for a witness to be examined in their absence.
2. In that case, the defendant will immediately be notified of what occurred in his absence and only then will the investigation continue.

Article 333

1. If a witness is suspected of committing the criminal offence of perjury at the hearing, the Court may, on the claim of the Attorney-General or at the request of the defendant, order an investigation in that regard, if necessary with suspension of the investigation at the hearing.
2. In that case, the Clerk of the Court will draw up a statement which will be signed by the head of the bench, the judges and the Clerk of the Court himself. The record shall contain the statement made by the witness.
3. The statement of the witness will be read to him; he will then be asked whether he abides by his statement, in which case he signs the statement. In the absence of a signature, the rejection or the cause of the impediment will be reported in the record.

4. The Court may also order the Attorney-General to make a claim, as referred to in Article 221, for the examining judge to perform certain investigative actions.
5. The Court will hand the statement to the Attorney-General.

Article 334
Article 260 applies in relation to the examination of the persons referred to in the record as witnesses.

Article 335
(no text)

Article 336
Without prejudice to Article 70l, all provisions of this Title concerning witnesses and their statements also apply with regard to experts and their statements.

1. If required by one of the judges or the Attorney-General, the head of the bench will read out records, reports of experts or other documents.
2. Equivalent reading has taken place at the request of the defendant, unless the Court orders otherwise, officially or on the opposition of the Attorney-General.
3. Unless the Attorney-General or the defendant oppose this on reasonable grounds, the reading of documents may be replaced by an oral notice of the abridged content by the head of the bench.
4. On the objection of the defendant, documents that are not read out or the abridged content of which is not notified in accordance with paragraph 3 will be disregarded.

Article 337
1. Statements, reports of experts or other documents will be read out by the head of the bench if so required by the head of the bench, one of the judges or the Attorney-General.
2. Equivalent reading will take place at the request of the defendant, unless the Court orders otherwise, officially or on the opposition of the Attorney-General.
3. Unless the Attorney-General or the defendant oppose this on reasonable grounds, the reading of documents may be replaced by an oral notice of the abridged content by the head of the bench.
4. On the objection of the defendant, documents that are not read out or the abridged content of which is not notified in accordance with paragraph 3 will be disregarded.

Article 338
(no text)

Article 339
(no text)

Article 340
(no text)

Article 341

1. After all experts and witnesses have been heard, the defendant is questioned. However, if the head of the bench considers this necessary, he will be interrogated earlier.
2. If there is more than one defendant, the examination takes place in the sequence to be determined by the head of the bench, after having heard the Attorney-General and the legal counsels.
3. The defendant is first questioned by the head of the bench. The other judges may then put questions, followed by the counsel and the Attorney-General.
4. If the head of the bench sees reason to do so, he may give the Attorney-General an opportunity to interrogate the defendant first. In that case, the counsel will then be given an opportunity to put questions to the defendant.
5. In any event, the head of the bench will give the counsel and the Attorney-General an opportunity to make comments in response to the statement of the defendant.
6. Officially or in response to an objection of the counsel or the Attorney-General, the head of the bench may forbid a response to any question put to the defendant. Any reply that may have been made to such a question will be disregarded.

Article 342
During the remainder of the investigation, questions may be put to the defendant by the head of the bench, the judges, the Attorney-General, the legal counsel and the co-defendant.

Article 343
In the examination of the defendant, as far as possible, the question of whether his statement is based on his own knowledge will be investigated.

Article 344
Neither the head of the bench nor any of the judges shall reveal any conviction concerning the guilt or innocence of the defendant at the hearing.

Article 345
If the defendant disrupts the peace and order at the hearing and has been warned by the head of the bench without effect, the head of the bench may order his removal from the courtroom and, if necessary, order that he be detained elsewhere for part or all of the session. The handling of the case will continue and judgment will be handed down as if the defendant were present. In that case, the defendant's legal counsel will remain responsible for the defence of the defendant.

Article 346
1. Officially, on the claim of the Attorney-General or at the request of the defendant, the head of the bench may decide that questions concerning the personal or living conditions of the defendant shall be established and handled in the defendant's absence and that the Attorney-General or the counsel will address the court with regard to the defendant's mental capacity in the absence of the defendant.
2. The head of the bench may likewise decide that the defendant will be heard in the absence of one or more co-defendants.
3. Article 332(2) applies.

Article 347
Following the examination of the defendant, questions may again be put to the witnesses or documents may be read out, pursuant to Article 326.

Article 348
1. If a defendant or witness does not understand the official language of the court, the examination will not take place without the support of an interpreter.
2. If a defendant or witness is unable to hear or speak, or can only do so very poorly, the questions or the answers will take place in writing.
3. If the defendant or witness referred to in paragraph 2 cannot read or write, or can only do so very poorly, the support of a suitable person as an interpreter will be ordered.
4. If necessary, the interpreter will be called up via the Attorney-General.
5. If the support of an interpreter proves to be necessary at the hearing, the Court may order that an interpreter be called.
6. If an interpreter does not appear, Article 321 applies likewise.
7. The defendant may reject the interpreter on certain defined grounds. The Court will immediately hand down a decision on this.

Article 349
1. Before commencing his work, the interpreter shall swear that he will perform his task in good conscience.
2. No further oath will be required of a person who, on the claim of the Public Prosecutors Office is sworn as a permanent court interpreter by the Court.
3. Only persons who are not already participating in the investigation in another capacity will be admitted as interpreters.

Article 350
In the cases in which the support of an interpreter is ordered, on the objections of the defendant, what is said or read out at the hearing without being interpreted for him will be disregarded.

Article 351
1. If necessary, the head of the bench will show the defendant and the witnesses the objects, that serve as evidence and will hear them in that regard.
2. The defendant is authorised to bring such objects to the hearing and to submit these.

Article 352
The Court has the same authority as that assigned to the Public Prosecutors Office in Article 197. It shall exercise this officially, on the claim of the Attorney-General or at the request of the defendant.

Article 352a
1. The head of the bench will grant a person wishing to exercise his right to speak the opportunity to do so. After that person has made his declaration, the head of the bench and the judges may put further questions to him on his statement. Further questions of the Attorney-General and the defendant will be put via the intermediary of the head of the bench.
2. If a person wishing to exercise the right to speak fails to appear at the hearing after being correctly summoned, the Court may order that the

person in question be called to appear at the hearing at a time to be fixed. If that person fails to appear at the hearing for a second time, it will be assumed that they have waived the right to speak.

Article 353

1. Subject to the provisions of Article 347, after the examination of the defendant has taken place, the Attorney-General may address the court and after the claim has been read out, will submit it to the Court. The claim will describe the punishment or measure if the imposition of this is claimed and in that case, will also state which particular criminal offence was allegedly committed. In as far as the defendant had not previously become aware of this, the Attorney-General will state whether he intends to file a claim as referred to in Article 1:77 of the Criminal Code and whether a criminal financial investigation, as referred to in Article 177a, has been instituted for that purpose. This notice of the Attorney-General will be noted in the record of the hearing.
2. The defendant may reply to this.
3. The Attorney-General may then address the court once again.
4. Thereafter, the defendant may make comments on one further occasion.
5. However, on pain of nullity, the defendant will have the right to speak last.
6. Article 347 still applies after this and further questions may also be put to the defendant. In that case, the Attorney-General and the defendant may once again address the court on the basis described above.

Article 354

(no text)

Article 355

1. If the Attorney-General takes the view that the charge should be changed, he will submit the content of the changes that he considers necessary to the court in writing, with a claim that the changes be permitted.
2. The defendant will be heard in relation to the claim for a change.
3. If the court grants the claim, it will provide at the hearing for the inclusion of the content of the changes made in the record. In no case will changes which result in the charge no longer relating to the same offence, as referred to in Article 1:143 of the Criminal Code, be permitted.

Article 356

1. If the charge is changed in accordance with Article 355, the Clerk of the Court will himself hand the defendant a certified copy of the change at the hearing. If the court finds against the defendant by default, the investigation of the altered charge will be continued immediately if the defence of the defendant could not reasonably be deemed to have been harmed by the failure to notify him of the change. In the other case, the altered charge will be served upon the defendant at the earliest opportunity.
2. The court will suspend the investigation for a fixed term; however, with the consent of the defendant or the counsel who was assigned to the defence pursuant to Article 306(2), the investigation may be continued immediately or continued after a brief interruption.

Article 357

1. If a description as referred to in Article 285(3) sufficed in the charge for the statement of the offence, that statement will be made compliant with the requirements of paragraphs 1 and 2 of that Article.
2. Articles 355, with the exception of the final sentence of paragraph 3, and 356 apply likewise.

Article 358

1. If the examination at the hearing of witnesses who have not yet been heard, or the submission of documents or documentary evidence that are not present at the hearing appear to be necessary to the Court, it will order that those witnesses be subpoenaed, if necessary with the addition of an order that they be brought forward, or that those documents or documentary evidence be submitted, at a time to be fixed by the Court.
2. Article 318(7) applies likewise to orders to subpoena witnesses, as referred to in paragraph 1, and the accompanying orders that they be brought forward.
3. If the Court considers it necessary to examine an expert who has not yet been heard at the hearing in relation to a report that he has presented, it will order the subpoena of the expert in accordance with the provisions of paragraph 1. If the Court wishes to order a new expert investigation, after hearing the Attorney-General and the defendant, it shall appoint an expert and assign him an order to present a written report. The Court may also place the case in the hands of the examining judge, with or without the application of Article 359(2).

Article 359

1. If any investigation by the examining judge proves to be necessary, the Court places the documents in the hands of the examining judge, suspending the case with the designation of the subject of the investigation and if necessary, the way in which this should be designed.
2. If the investigation will consist solely of the examination of witnesses or the assignment, appointment and examination of experts, the Court may refer the case to the examining judge or, in the case of an appeal and if the Attorney-General and the defendant consent to this, designate the head of the bench or one of the judges hearing the case as the examining judge. This judge may take part in the further investigation at the hearing unless it is decided, on the examination of witnesses or experts, that the defendant or his counsel may not attend.
3. The investigation will be conducted in accordance with the provisions of Articles 225 to 271.

Article 360

1. If it is necessary to institute an investigation into the mental capacity of a defendant for whom pre-trial detention has been ordered and this cannot take place adequately by other means, the Court will order, in a decision stating the reasons, that the defendant be transferred to an institution for observation, to be designated in the order if possible.
2. The order will not be issued until the view of one or more experts has been obtained and the Attorney-General, the defendant and his counsel have been given an opportunity to be heard in that regard.
3. Article 177 applies, with the proviso that ‘examining judge’ should be read as ‘the Court’.

Article 361

1. If the Court considers it necessary to conduct an inspection or the examination of witnesses or defendants at a location other than in the courtroom, it may order, with suspension of the proceedings, that the hearing be temporarily relocated for that purpose.
2. To that end, the Court is authorised to enter any location with the persons designated by the Court. Article 161 applies.
3. A record of an entry into a residential property without the explicit consent of the occupant will be drawn up within two times 24 hours. Article 163(4) applies likewise.
4. On the basis of the condition of the location at which the temporary hearing will be conducted, the Court is authorised to issue the necessary regulations for the way in which the case will be handled at that hearing.

Article 362

1. In all cases in which the investigation is interrupted or suspended for a fixed term, the head of the bench will orally notify the defendant present and his counsel, the victim or the surviving dependent, as defined in more detail in Article 70e, and the witnesses, experts and interpreters present of the time at which they must be present at the hearing, unless the Court, having heard the Attorney-General and the defendant, decides that the presence of the witnesses and experts is not required during the further handling of the case as neither the prosecution by the Public Prosecutors Office nor the defence of the defendant will be harmed as a result.
2. The head of the bench will notify the injured party in attendance of the time at which the investigation will be resumed at the hearing. The notifications apply as summons. If witnesses, experts or interpreters fail to appear at the designated time, Article 318(3) and the following paragraphs of that Article apply likewise.
3. In the event of suspension, the defendant, the legal counsel, the victim or the surviving dependants, as designated in more detail in Article 70e, and the witnesses, experts and interpreters who were not present at the hearing at the time of the notification referred to in paragraph 1, will be recalled for the further handling of the case unless the Court, having heard the Attorney-General and the defendant, will rule that their presence at the further handling of the case is not required. The injured party who is not in attendance at the time of the notification will also be called.

Article 363

1. In all cases in which the investigation is suspended for an indefinite period, the defendant, his counsel, the victim or surviving dependants, as further defined in Article 70e, and the witnesses, experts and interpreters as well as, where relevant, the injured party, are summoned to the hearing for the further handling of the case as soon as the reason for the suspension no longer applies, unless the Court, having heard the Attorney-General and the defendant, decides that the presence of the witnesses and experts is not required for the further handling of the case as this will not adversely impact on either the prosecution by the Public Prosecutors Office or the defence of the defendant.

2. The provisions of Article 290 concerning the subpoena of the defendant apply here with regard to the summons of the defendant.

Article 364

In the event of the suspension of the investigation, record will be drawn up in compliance with the requirements of Article 369.

Article 365

1. Without prejudice to the provisions of Article 366, in all cases in which suspension of the investigation takes place, the case will be resumed at the further hearing in its status at the time of the suspension. The Court is authorised to order that the investigation at the hearing be recommenced.
2. The Court will order that the investigation be recommenced at the hearing in the event that the composition of the Court has changed on the resumption of the investigation, unless the Attorney-General and the defendant consent to resumption with the same status of the investigation as at the time of the suspension.
3. In the event that the investigation is recommenced, decisions of the Court concerning the validity of the issue of the subpoena, decisions on the defendant's defences on the grounds of Article 316(1), decisions on claims for alteration of the charges and decisions on the examination or subpoena of witnesses or experts to appear in court on the grounds of Articles 318, 321 and 358 remain in effect, unless the newly-constituted Court rules otherwise.

Article 366

1. If, on the resumption of the investigation, the defendant against whom a default judgment was handed down for the suspension appears at the hearing set for the further handling of the case, or provides for a defence after all in observance of Article 306(1) or in the cases permitted by statutory regulation, is represented by an authorised representative, the default judgment handed down will be declared to have lapsed.
2. If, in cases other than that of paragraph 1 or Article 308(3), the defendant against whom a default judgment was handed down appears at the hearing during the investigation, or provides to be represented in observance of Article 306(1) after all, or in the cases permitted by statutory regulation, is represented by an authorised representative, the Court may declare the default judgment to have lapsed.
3. The Court may order that certain investigative actions take place again.
4. Article 365(3) applies.

Article 367

1. Despite the suspension, the Court is authorised at all times to temporarily reopen the investigation at the hearing for certain urgent measures.
2. Articles 363 and 365 apply.

Article 368

(no text)

Article 369

1. The Clerk of the Court keeps the record of the hearing, in which the forms observed are noted, followed by all that occurs at the hearing in relation to the case, in sequence.
2. The record also contains the substance of the statements of the witnesses, experts and defendants. If the Attorney-General claims or the defendant requests that any statement be recorded literally, this request will be met as far as possible on the orders of the court, in as far as the request does not exceed reasonable limits and the statement will be read out. If the Attorney-General or the defendant do not regard the statement as adequately presented, the Court shall decide.
3. The head of the bench may order that a note be made in the record of any particular circumstance, statement or notice.
4. Equivalent notation takes place if one of the judges so requires, or on the claim of the Attorney-General or at the request of the defendant or the injured party.

Article 370
The record will be adopted by the head of the bench or by one of the judges who adjudicated in the case and the Clerk of the Court and will be signed as soon as possible after every close of the hearing. In as far as the Clerk of the Court is unable to perform the foregoing, this will take place without his assistance and his absence will be reported at the end of the record.

Article 370a
1. Except in the case described in paragraph 2, an abridged record may be drawn up, containing only the decisions that are not included in the sentence and the notes, inclusion of which is required by this national ordinance, other than by Article 369(1) or 369(2).
2. If the sentence is handed down by default and the summons is not served in person and no circumstances have arisen resulting in the date of the hearing or the date of the further hearing being known to the defendant, while witnesses or experts were heard at the hearing or an injured party joined the criminal proceedings, by way of derogation from paragraph 1, a record will be drawn up that complies with the requirements of Article 369.
3. If an ordinary legal remedy is deployed against the sentence or a claim or request as described in Article 402(7) is met, the abridged record will be supplemented in such a manner that it complies with the requirements set in Article 369. The addition takes place within the term set in Article 402(7).
4. Article 410(3) to 410(5) applies likewise.

Article 371
The Attorney-General may submit a claim and the defendant may submit a request to the Court to take every court decision pursuant to the provisions of this Title, unless provided otherwise in any provision.

Article 372
The Court will hear the Attorney-General before deciding on any request or objection. Before deciding on any claim or any objection of the Attorney-General, the Court will hear the defendant if in attendance, or his legal counsel.

Article 373

1. Every right assigned to the defendant by this Title also accrues to his counsel, who supports the defendant present at the hearing or is admitted on the grounds of Article 306(1) to defend an absent defendant.
2. In all cases in which this Title requires the consent or permission or the hearing of the defendant or his counsel, this applies only with regard to a defendant or counsel who is present at the hearing.

Section 3
Injured party

Article 374
The Court may order that an injured party who did not appear at the hearing in person or via a representative will be called to appear at the hearing at a later time to be fixed by the Court.

Article 375
If, in the view of the Court, the injured party is apparently inadmissible, the Court may hand down a decision on the inadmissibility of the injured party without further investigation of the case.

Article 376
(no text)

Article 377
1. The injured party or his lawyer may submit documents in evidence of the damage suffered or of the amount of such damage.
2. The head of the bench may grant the injured party permission to call witnesses or experts.

Article 378
1. The injured party or his lawyer may put questions to every witness and expert, but only with regard to the damage suffered or the amount of such damage.
2. The questioning of witnesses and experts by the injured party or his lawyer takes place through the mediation of the head of the bench, unless the Court permits this to take place without such mediation. The permission may be withdrawn at any time.
3. The Court may prevent answers being given to any question put by or on behalf of the injured party.

Article 379
The injured party may explain or provide for an explanation of his claim after the Attorney-General has submitted his claim pursuant to Article 353. The injured party may speak again after the Attorney-General has been given an opportunity to address the court for the second time.

Article 380
Subject to the application of Article 375, the Court will hand down judgment on the claim of the injured party at the same time as the final judgment in the criminal proceedings.

Section 4
Evidence

Article 381
The evidence that the defendant has committed the offence as charged may be accepted by the court only if it reached that conviction through the investigation at the hearing or through the content of legal evidence.

Article 382
1. Only the following are recognised as legal evidence:
   a. the personal observations of the judge;
   b. statements of the defendant;
   c. statements of a witness;
   d. statements of an expert;
   e. written documents.
2. No evidence is required for generally known facts or circumstances.

Article 383
The 'personal observations of the judge' refers to the observations made personally by the judge during the investigation at the hearing.

Article 384
1. 'Statement of the defendant' refers to statements of facts or circumstances of which the defendant is aware from his own knowledge, made during the investigation at the hearing.
2. Such statements made at locations other than at the hearing may contribute to the evidence that the defendant committed the offence as charged, if this is shown by any legal evidence.
3. His statements can apply only in relation to himself.
4. The evidence that a defendant committed the offence as charged may not be accepted by be court solely on the grounds of statements of the defendant.

Article 385
1. 'Statement of a witness' refers to his reports of facts or circumstances that he observed or experienced himself, made during the investigation at the hearing.
2. The evidence that the defendant committed the offence as charged may not be accepted by the court solely on the basis of the statement of just one witness.

Article 386
'Statement of an expert' refers to his statement made during the investigation at the hearing regarding what his expertise and knowledge teach him about what is subject to his opinion, on the basis of an expert report that he presented on commission, or otherwise.

Article 387
1. 'Written documents' refers to:
   a. decisions drawn up in the statutory form by benches of judges or persons responsible for adjudication;
   b. records and other documents drawn up in the statutory form by benches and persons authorised to do so, containing their reports of facts or circumstances that they personally observed or experienced;
   c. documents drawn up by public boards or officials concerning subjects belonging to the service placed under their management, as well as document drawn up by a public servant of a foreign state or an international law organisation;

d. reports of experts with an answer to their assignment to provide information or to conduct an investigation, based on what their science and knowledge teach them with regard to what is subject to their opinion;
e. all other documents, but these may only apply in connection with the content of other evidence.

2. The evidence that the defendant committed the offence as charged may be accepted by the court on the basis of the statement of an investigating officer.

Article 387a

1. The evidence that the defendant committed the offence as charged may not be accepted by the court solely or to a decisive extent on written documents containing statements of persons whose identity is not revealed.
2. A record of an examination by the examining judge, containing the statement of a person who is qualified as a threatened witness, or containing the statement of a person who is qualified as a protected witness and whose identity is kept concealed, may only contribute towards the evidence that the defendant committed the offence as charged if at least the following conditions are met:
   a. the witness is a threatened witness or a protected witness and was heard as such by the examining judge heard, and
   b. in as far as proven, the criminal offence of which the defendant is charged concerns an offence as described in Article 100(1) and in view of its nature, the organised system in which it was committed, or the relationship with other criminal offences committed by the defendant, gives rise to a serious breach of legal order.
3. Apart from in the case described in paragraph 2, a written document containing a statement by a person whose identity is not revealed may only contribute to the evidence that the defendant committed the offence as charged if the following conditions are met:
   a. the finding that the charge is proven is largely based on other types of evidence, and
   b. the desire to question or to provide for the questioning of the person referred to in the opening sentence by or on behalf of the defendant is not the desire expressed to question or to provide for the questioning of the person referred to in the opening sentence.
4. The evidence that the defendant committed the offence as charged may not be accepted by the court solely on the grounds of statements of witnesses with whom an agreement was reached on the basis of Section 5B, Title III of Book 4.

Section 5
Assessment and judgment

Article 388

1. After the end of the investigation, this will be declared closed by the head of the bench and either the judgment will be handed down immediately or the date on which it will take place according to the decision of the Court will be notified orally by the head of the bench.
2. The judgment may be deferred to another day orally on the day itself. On pain of nullity, the judgment may not be overturned unless it was handed down in the presence of the defendant.
3. In no case may the judgment be handed down later than on the 21st day following the date of the closure of the investigation. When the sentence is imposed, Article 402 will be observed.
4. If the judgment has not yet been handed down, the case will be investigated again by the same bench in relation to the same charge.

Article 389

1. If, in the opinion of the court in the first instance, the case is of a simple nature, specifically including with regard to the evidence and the application of the statutory regulation, a judgment handed in the manner referred to in Article 425 will suffice, except in the case where a written judgment is required by one of the parties. However, Article 402(7) remains applicable.
2. If the Court has handed down a judgment immediately in accordance with Article 388, that judgment will be recorded in writing in accordance with the provisions of Article 402, no later than on the 21st day after the closure of the investigation.

Article 390

1. If it is found during the deliberations that the investigation was not complete, the Court may order at the hearing that the investigation be resumed at a hearing to be determined by the Court.
2. The witnesses, experts, interpreters and the injured party whose examination or presence is considered necessary will also be designated in the order, or the documentary evidence or other items of evidence for which the Court wishes to be granted access or viewing rights.
3. In this case, action will be taken as if the investigation had been suspended indefinitely, with the proviso that the obligatory summons only concerns the defendant and his counsel, as well as the witnesses, experts and interpreters and the injured party designated in the order.

Article 391

1. In the case referred to in Article 390(1) the Court may also provide for an investigation by the examining judge in accordance with the provisions of Article 359.
2. In this case, action will be taken as if the investigation had been suspended indefinitely.

Article 392

1. The Court conducts an investigation on the basis of the charge and in response to the investigation at the hearing of the validity of the summons, the competence of the Court to hear the offence charged and the admissibility of the Attorney-General and whether there are reasons for suspension of prosecution.

2. In the proceedings on appeal, the investigation will take place partly on the basis of the investigation at the hearing in the first instance, as it took place according to the record drawn up of this, and the Court will investigate the admissibility of the appeal before investigating the validity of the summons.

Article 393

1. If the investigation referred to in Article 392 gives grounds for this, the Court will declare the inadmissibility of the appeal filed, the nullity of the summons, the non-competence of the Court, the inadmissibility of the Attorney-General or the suspension of the prosecution.
2. If, on the grounds of Article 289a(2)(b), the Attorney-General rejects an order handed down by the court to enforce a summons or subpoena a witness, while that witness is not a threatened witness pursuant to a final court decision, nor a protected witness whose identity is kept concealed, the Court will declare the prosecution of the Attorney-General to be inadmissible.

Article 394

1. If the investigation referred to in Article 392 does not lead to the application of Article 393, the Court will deliberate on the grounds for the charge and on the basis of the investigation at the hearing, on the question of whether it has been proven that the offence was committed by the defendant and if so, which criminal offence the evidence found to be proven gives rise to according to statutory regulations; if it is found that the offence is proven and a criminal offence, then the Court will deliberate on the criminality of the defendant and on the imposition of a punishment or measures laid down by a statutory regulation.
2. In the proceedings on appeal, the deliberations will take place partly on the basis of the investigation at the hearing in the first instance, as it took place according to the relevant record that was drawn upon.

Article 395

1. If the Court regards the offence of which the defendant is charged to be proven and the offence to be a criminal offence and the defendant punishable, it will impose the sentence or the measure, in observance of the statutory provisions.
2. In the appeal proceedings, the offence of which the defendant was acquitted in the first instance can be declared proven only by a unanimous vote. However, such unanimity is not required if a decision is handed down in an alternative charge in the first instance that the defendant committed one of the offences with which he is charged.
3. If only the defendant appeals, he may only be sentenced to a more severe punishment than that to which he was sentenced in the first instance by a unanimous vote.

Article 396

1. If the Court finds it to be unproven that the defendant committed the offence of which he is charged, it shall acquit him. If the acquittal arises from the application of Article 413, this will be reported in the special reasons.

2. If the Court finds the offence to be proven but the offence is not criminal or the defendant is not punishable, it shall discharge him from all prosecution in that regard. In the case referred to in the opening sentence of Article 1:115, and Article 1:115a of the Criminal Code, it may also impose a measure a provided for in Article 1:80, 1:81, 1:82, 1:86 or 1:174 of the Criminal Code, if the statutory conditions for this have been met.

Article 397

1. In the event of the application of Article 1:12 of the Criminal Code, the imposition of a punishment or measure or the defendant's release or dismissal from all prosecution, the Court, unless it declares that it is not competent to issue such an order, shall order that seized objects that have not yet been returned shall be returned to a named person, in as far as they are not declared to be confiscated or withdrawn from circulation. The Court's decision is without prejudice to every person's rights to the object. Article 144 applies as far as possible.
2. The Court may order that an object concerning which proceedings are pending in the civil courts shall be kept in a specific manner pending this legal action, at the cost of the party found to be in the wrong.
3. Article 145 applies likewise to a charge imposed pursuant to paragraphs 1 and 2.
4. The Court may order the return of seized objects, subject to the provision of security. Article 145a applies likewise.

Article 397a

1. In the sentence, the Court will also take a decision on the data made inaccessible with the application of Article 172 if the relevant measures have not yet been withdrawn.
2. The Court may order that the data be destroyed if these are data concerning which or with the aid of which a criminal offence has been committed, in as far as such destruction is necessary to prevent new criminal offences. In all other cases, the Court will order that the data be made available again to the manager of the automated device.
3. In the cases referred to in Article 397(1), the Court will also take a decision on the order referred to in Article 172a, if such an order has not yet been withdrawn.

Article 398

1. If a default judgment was handed down, after this has become enforceable, the decision of the Court concerning the documentary evidence may be executed if the judgment has not yet become final, after an accurate description of those documents has been drawn up by the Clerk of the Court and deposited at the court registry.
2. The Court may exempt such objects as it considers necessary from the return or destruction in accordance with paragraph 1.

Article 399

1. If the Court assumes forgery in authenticated documents, it will declare the entire document to be false in the judgment, or will define what the forgery consists of.
2. As soon as the judgment has become final, the Clerk of the Court shall place a note, which he signs, on the document, to the effect that this has been declared entirely or partially false and reporting the judgment by which this took place.

3. The provisions of paragraph 2 do not apply to deeds contained in a register of the Personal Records Database.
4. Executory copies, copies of or extracts from the document will not be issued without the addition of the notes applied to this.

Article 400

1. In as far as possible, the judgment will include the surname and first names, date of birth, place of birth, occupation and place of residence or accommodation of the defendant.
2. On pain of nullity, it will also contain the names of the judges who adopted it and the date on which the judgment was handed down.

Article 401

1. In the proceedings in the first instance, the judgment in the cases referred to in Article 393 will contain the decisions referred to there.
2. In the other cases, the judgment will contain the decision on the points referred to in Article 394(1).
3. If, in contravention of the defence explicitly proposed by the defendant in that regard, Article 393 is not applied or it is accepted that what has been declared proven gives rise to a particular criminal offence or that a particular reduction in the punishment or grounds for excluding punishment is not present, the judgment in that regard shall specifically provide a decision.
4. If a punishment or measures are imposed, the judgment shall also state the statutory regulations on which these are based.
5. All on pain of nullity.

Article 402

1. The judgment contains the charge and the claim of the Attorney-General.
2. The decisions referred to in Articles 393 and 401(2) and 401(3), and the decisions that differ from views explicitly supported by the defendant or the Attorney-General, will be justified in the judgment with the special reasons that led to this.
3. The decision that the defendant committed the offence must be based on the content of evidence included in the judgment, containing facts or circumstances providing reasons for that purpose. In as far as the defendant has admitted what has been declared proven, a statement of evidence will suffice unless he stated otherwise thereafter or he or his counsel have made a plea for acquittal.
4. In particular, the judgment will include the reasons that determined the sentence or led to the measure.
5. With the imposition of a punishment or measure that entails deprivation of liberty, the judgment will in particular state the reasons that led to the choice of this type of punishment or to this type of measure. As far as possible, the judgment will also state the circumstances on which the determination of the term of the punishment is based.
6. If a more severe punishment is imposed than that claimed by the Attorney-General, or if an unconditional sentence is imposed that involves deprivation of liberty for a longer term than that claimed by the Attorney-General, the judgment shall, in particular, state the reasons that led to this in each case. The same applies if the Court imposes a more severe punishment or measure than that imposed by the court of first instance.

7. Within four months of the final judgment, the judgment will be supplemented by the evidence referred to in paragraph 3 if a legal remedy against the judgment is invoked or if the defendant or his counsel request this, or the Attorney-General claims it.
8. If the measure of detention in a mental hospital with nursing is imposed in relation to a criminal offence directed against or that causes a danger to the integrity of the body of one or more persons, the judgment will report this, stating the reason.
9. Subject to the provisions of paragraphs 3 and 7, everything takes place on pain of nullity.

Article 403

1. If the evidence is accepted partly on the basis of the statement of a witness as referred to in Article 250a(2) or of a witness, who is heard on the basis of the provisions of Article 261 or Article 261l, or if the witness was heard in the manner provided for in Articles 230(2) and 323(1), or it is also accepted on the basis of written documents as referred to in Article 387a(3) or it is also accepted on the basis of the statement of a witness with whom an agreement has been reached by the public prosecutor in accordance with Section 5B of Title III of Book 4, the judgment will in particular state the reasons for this.
2. If, following suspension of prosecution due to a difference of opinion over a point of civil law, derogation from the judgment of the civil court takes place, the judgment shall also state the special reasons for this.
3. All on pain of nullity.

Article 404

1. If a decision on the claim of the injured party must be handed down at the same time as the judgment in the criminal proceedings, the deliberations of the Court shall partly concern the admissibility of the injured party, the soundness of its claim and the award of the costs incurred by that party, the defendant and, in the case referred to in Article 70g(4), his parents or guardian. The deliberations on the award of the costs will also take place if Article 375 applies.
2. The injured party's claim shall be admissible only if:
   a. any punishment or measure is imposed on the defendant, or in the case of the application of Article 1:12 of the Criminal Code and
   b. direct damage has been caused to the injured party through the offence that has been declared proven or through a criminal offence concerning which the summons stated that this was acknowledged by the defendant and would be notified to the Court, and which the Court took into account in imposing the sentence.
3. If, in the view of the Court, handing of the claim of the injured party gives rise to a disproportionate encumbrance of the criminal proceedings, the Court may, at the request of the defendant or in response to the claim of the Attorney-General, or officially, may decide that the claim is inadmissible, partially or in full, and that the injured party may only bring its claim, or the part of the claim that is inadmissible, before the civil courts.
4. Unless the Court, with the application of Article 375 has handed down a decision on the inadmissibility of the injured party's claim without further investigation of the case, the judgment also contains the decision of the Court on the injured party's claim. This decision will include a statement of the reasons.

5. If the Court finds the claim of the injured party referred to in Article 70g(4) to be well-founded, it shall grant the claim against the parents or the guardian and will order them to pay compensation for the damage.
6. The judgment also contains the Court's decision on the award of the costs incurred by the injured party, the defendant and, in the case referred to in Article 70g(4), his parents or guardian.

Article 405

If the Attorney-General has also submitted a claim for an order of full or partial enforcement of a sentence imposed with the application of Article 1:19 of the Criminal Code, the Court will also deliberate on its authorisation to decide on the claim, the admissibility of the Attorney-General's claim and on the soundness of the claim. Unless the Court is not competent to rule on the claim or if a decision is handed down ruling that the Attorney-General's claim is inadmissible, the judgment will then also include the decision of the Court on the claim.

Article 406

1. In the appeal proceedings, in the cases of Article 393, the judgment of the Court includes the decisions referred to in that Article.
2. In the other cases, the Court confirms the judgment of the court in the first instance, with full or partial adoption of that judgment or with supplementation and improvement of the grounds or, does what the court of first instance should have done, overturning the judgment partially or in full.
3. However, if the court of first instance has not decided on the primary case and the investigation of this must be the consequence of the judgment being overturned, the Court will refer the case to the Court of First Instance for that purpose, unless the Attorney-General and the defendant require the Court to decide on the primary case. In the event of referral, the court of first instance will adjudicate in observance of the judgment of the Court.
4. If the judgment of the court of first instance is overturned, the Court is nevertheless authorised to include parts of it in its judgment, in as far as these are not null and void, by referring the case thereafter. If the record or hearing in the first instance is null and void, the judgment may nevertheless be confirmed, in as far as it is not null and void.
5. If the statutory regulations on which the imposition of a punishment or measure is based is not reported in the judgment of the court of first instance, the Court may consent to overturn the judgment only in that respect and to do what the court of first instance should have done.
6. If a primary sentence has been handed down in the event of the concurrence of several facts and circumstances and the appeal has been filed only with regard to one or more of the facts, in the event that the sentence is overturned, the sentence for the other offence or offences will be determined with the judgment.

Article 407

1. In the first instance, on pain of nullity, the judgment will be handed down in open court in the presence of the public prosecutor and the Clerk of the Court.
2. On appeal, the judgment, on pain of nullity, will be handed down in a public session of the Court, possibly a single-judge session, in the presence of the Attorney-General and of the Clerk of the Court.

3. The judgment will be handed down by the head of the bench if possible, or by one of the judges who adjudicated on the case.
4. The judgment will be interpreted for a defendant who was supported by an interpreter during the investigation at the hearing and who is in attendance when the judgment is handed down.

Article 408

1. A defendant who is in pre-trial detention in relation to the offence investigated at the hearing attends the handing down of the judgment unless he is unable to do so or has provided oral or written notice that he wishes to stay away.
2. If such a defendant is unable to attend the handing down of the judgment, the judgment will be read out to him by the Clerk of the Court at the location where he is detained, with the notification referred to in Article 409 being prescribed for the head of the bench. The Clerk of the Court will record the foregoing on the judgment.
3. If the defendant is held in detention in another Country from that in which the court proceedings took place, the reading referred to in paragraph 2 may be performed by the registrar in the Country in which the defendant is detained.

Article 409

1. If the defendant attends the handing down of the judgment in the proceedings in the first instance, the Court will notify him orally on that occasion of the legal remedy that is open in relation to the judgment and of the term within which that legal remedy can be deployed.
2. On appeal, the head of the bench notifies the defendant in the same manner of his authorisation to file the case with the Supreme Court of the Netherlands.
3. The defendant may immediately declare orally, or in writing after the relevant judgment at the registry of the relevant Court of First Instance, that he wishes to waive an appeal or an appeal in cassation, wether orally or, after the relevant judgment, in writing at the registry of the relevant Court of First Instance.
4. A defendant who is not in attendance when the judgment is handed down may, after receiving notice of that judgment, declare in writing at the registry of the relevant court of first instance that he wishes to waive his rights, as referred to in the preceding paragraph, or may authorise his counsel to do this in his place.
5. The Public Prosecutors Office may declare that it wishes to waive legal remedies, orally at once or in writing at the registry of the court concerned, after the relevant judgment.

Article 410

1. The sentence will be signed as soon as possible after the judgment, in observance of the term referred to in Article 389(2), by the judge or judges who adjudicated in the case and by the Clerks of the Court who were present at the deliberations and the handing down of the judgment.
2. If one or more of them is unable to do so, this will be reported at the end of the notice of the judgment.

3. As soon as the judgment is signed, and in any event after the expiry of the term within which any legal remedy is available, the defendant, his legal counsel or the injured party will be able to view the judgment and the record of the hearing. The Clerk of the Court will provide a copy of the judgment and the record to the Public Prosecutors Office and to the defendant, his legal counsel and the injured party on request
4. The head of the bench will provide a copy of the judgment and the record of the hearing to every party other than the defendant, his counsel or the injured party on request, unless, in the view of the head of the bench, such provision should be refused, partially or in full, in order to protect the interests of parties concerning whom the judgment was handed down or of third parties named in the judgment or in the record. In the latter case, the head of the bench may provide an anonymized copy or an extract of the judgement and the record.
5. The 'judgement' also refers to the documents attached to it. No copies of or extracts from other documents forming part of the criminal procedures file will be provided.
6. A defendant who does not master the Dutch language in which the judgment is drawn up, or does not do so adequately, and who requests a copy of the judgment pursuant to paragraph 3 will be notified, in a language that he understands, of:
   a. the decision pursuant to Article 393 or the decision on prosecution, acquittal or discharge from all prosecution;
   b. if a conviction or dismissal from all prosecution is handed down, the name of the criminal offence that the facts declared to have been proven give rise to, stating the location and the time at which the offence was committed;
   c. if a punishment or measure is imposed, the punishment or measure imposed as well as the statutory regulations on which they are based. The notice will not be sent if the defendant was present when the judgment was handed down and this was interpreted for him pursuant to Article 407(4), or if the defendant was notified of the sentence in a language that he understands pursuant to Article 411(2).

Article 411

1. If the court found against the defendant by default, or the defendant was not acquitted of the charge, or was not acquitted in full, the Court will issue a notice of its decision in accordance with Articles 393, 395(1) or 396(2), to be served upon the defendant via the Attorney-General at the earliest opportunity. This provision does not apply to a defendant on whom a summons to appear at the hearing in person was served, in as far as this concerned the default judgment. The notice states the judges who handed down the judgment, the date of the judgment, the qualification of the criminal offence shown in the judgment, stating the approximate time and location at which the criminal offence was allegedly committed and, in as far as stated in the judgment, the defendant's surname and first names, date of birth, place of birth, occupation and place of residence or accommodation.
2. In all cases in which the Attorney-General so decides, and in as far as possible, the notice is served upon the defendant in person. If the defendant does not master the Dutch language in which the notice is drawn up, or does not do so adequately, he will be provided with a translation of the notice in a language that he understands.

3. If Article 1:19 of the Criminal Code is applied in relation to the defendant, the notice will also state all decisions relating to the order referred to in that Article, as well as the time at which the probationary period will commence pursuant to Article 1:20(3) of the Criminal Code, while the notice will be served upon the defendant in person only.
4. The notification will also take place if the summons to appear at the hearing was served upon the defendant in person or the defendant appeared at the hearing, but the investigation at the hearing was then suspended indefinitely and the summons to appear at the further hearing was not served upon the defendant in person and he did not appear at the further hearing. Paragraph 3 applies.

Article 411a

1. Officially or at the request of the defendant regarding whom the judgment was handed down, the Court or the Attorney-General may improve their judgment or decision in relation to an apparent calculation error, writing error or other apparent error which lends itself to simple correction. The Court shall not make the improvement until the parties have been given an opportunity to express their views on this.
2. A sentence or decision as referred to in paragraph 1 is deemed to belong to the original decision. No legal remedy for this is possible.

Section 6
Ad informandum cases

Article 412

1. If a punishment or measure is imposed, the court may take account of a special reason for the determination of these, named in the case documents, but not taking account of charges of criminal offences, if:
   a. it can be assumed that no further prosecution will be instituted against the defendant with regard to that offence, and
   b. it has become plausible on the grounds of any admission of the defendant in that regard, recorded in any established legal evidence or made at the hearing, that he committed that offence.
2. The court is not permitted to take account of the offences referred to in paragraph 1 if:
   a. the nature of those offences differs from the offence of which the defendant is charged to the extent that materially new points of view arise in these for the punishment, or the seriousness or number of these would influence the punishment or measure to a far-reaching extent;
   b. it is shown at the investigation at the hearing that the defendant no longer maintains his original admission or wishes to retract this;
   c. the case will be handled by default and the Public Prosecutors Office has failed to notify the defendant in a timely manner prior to the commencement of the hearing that it intends to submit the facts in question to the court in order that it can thereby take these into account in the determination of the sentence.
3. If, with regard to an offence with which the defendant has not been charged, as referred to in paragraph 1, pre-trial detention has been applied and on the basis of the preceding articles, the court took this offence into account in the determination of the sentence,
   a. the provisions of Article 1:62 of the Criminal Code will apply likewise;

b. on the basis of Article 1:68 of the Criminal Code, the court must issue a decision in relation to the seized objects.

Section 7
Consequences of violation of standards

Article 413

1. If, during the preparatory investigation or the investigation at the hearing, including in the event that the case is handled by the Council Chamber, standards, including both regulations described in law and rules of unwritten law, are violated, the court, either officially, on the claim of the Public Prosecutors Office or at the request of the defendant or his counsel, may correct the violation of standards in accordance with the nature and purport of the violated standard, or may order that this shall take place. The court may issue the necessary instructions for that purpose.
2. No correction shall take place if the violation of the standards can no longer be corrected and the legal consequences of this already arise from any statutory regulation.
3. If correction, as referred to in paragraphs 1 and 2, cannot take place, the violation of the standards will in principle remain without consequences.
4. On violation of standards of material significance for the criminal proceedings, following reasonable consideration of all interests at stake in the proceedings, the court may decide in its final judgment, either officially, on the claim of the Public Prosecutors Office or at the request of the defendant or his counsel, in as far as no special statutory regulation already makes provision for the consequences of the violation of standards:
   a. that the amount of the punishment will be reduced. in proportion to the seriousness of the violation of standards, if the adverse effects caused by the violation can reasonably be compensated in that manner;
   b. that the results of the investigation, in as far as they were realised directly by means of the violation of standards, will not be admitted as evidence of the criminal offence if an important criminal procedural regulation or principle of law would be harmed to a substantial extent by that gathering of evidence;
   c. that the Public Prosecutors Office would be declared inadmissible if there could be no question of handling of the case in compliance with the requirements of fair process as a result of the violation of standards.
5. If the court takes the view that there are grounds, based on the principles of reasonableness and fairness, for awarding compensation for damage, it may, to that end, decide either officially or on the claim of the Public Prosecutors Office or at the request of the defendant or his council, to take a decision by means of a separate order. This authorisation accrues to the court that handles the case at the hearing or, if the case is closed, which last served for that purpose. Compensation for damage may be awarded both in addition to and instead of the decisions referred to in paragraph 4. Articles 655 and 656 apply likewise.
6. In the assessment of the violation of standards and the consequences to be attached to this, as well as in the consideration of the interests at stake, the court shall take particular account of the character,

importance and purport of the standard, the seriousness of the violation of the standard, the adverse effects caused as a result and the degree of culpability of the person who violated the standard.

TITLE V
Adjudication of offences in the first instance

Article 414
Action on cases solely concerning offences that are made punishable as violations shall be commenced by or on behalf of the public prosecutor at the hearing:
a. either by means of a summons;
b. or by means of a writ of summons.

Article 415
With regard to commencing action by means of a summons, the senior public prosecutor may impose the necessary general or special rules on the investigating officers.

Article 416
1. Commencing action by means of a summons may take place only if a perpetrator is caught in the act by an investigating officer. Commencing action takes place through the immediate issue of a summons to the suspect by an investigating officer to appear at a hearing of the Court of First Instance named in the summons. The senior public prosecutor imposes regulations concerning the date and time of the hearing to which the summons relates.
2. On the issue of the summons, the content and purport of the summons are briefly explained to the defendant orally, if possible.
3. If the defendant refuses to take the summons presented, it is nevertheless deemed to have been issued to the defendant at the time of such presentation. In that case, the dispatch of a writ of summons, no later than on the 20th day following the detection of the offence, will suffice.
4. On the issue of the summons, the refusal to take the summons and the reasons for this and the issue of a writ of summons are reported in the statement of the investigating officer.
5. The summons contains a notice of the authorisation assigned to the defendant in Article 1:149(1) of the Criminal Code.

Article 417
1. The normal term for summonsing is observed in the summons.
2. If the suspect is arrested in accordance with Article 73, a summons may be issued to him without delay in order to appear for a hearing before the Court of First Instance on the same day. He may then be brought before the public prosecutor and then for the hearing. In this case, Article 428(3) does not apply.
3. The summons complies with the requirements of Article 285(1) concerning the subpoena. Nevertheless, a brief indication of the offence will suffice.
4. The summons is dated and signed by the investigating officer who observed the offence.

Article 418

1. Until the investigation at the hearing has begun, the public prosecutor may notify the suspect of the withdrawal of the summons, in writing if possible.
2. If the public prosecutor takes the view that the case should be brought for hearing before the court at a later date, he shall notify the defendant of that later hearing.

Article 419
The model of the form for the summonsing of the defendant to appear for a hearing may be by national decree containing general measures.

Article 420
1. In cases in which action is commenced by means of a summons on the day of the hearing itself, witnesses may be invited to appear at the hearing of the Court of First Instance by the officer who detected the offence. The invitation is presented by a bailiff or police officer to the witness in person or to a member of his household.
2. A copy of the invitation will be attached to the case documents.
3. If the public prosecutor withdraws the summons of the defendant or finds that the case should be brought before the court at a later hearing, he shall notify the witnesses invited pursuant to this Article of this without delay.
4. The model of a form for the invitation of the witnesses to appear at the hearing of the Court of First Instance may be established by national decree containing general measures.

Article 421
The public prosecutor is authorised to summons witnesses, experts and interpreters orally or to arrange for them to be summonsed orally by a bailiff or police officer to appear for a hearing of the Court of First Instance.

Article 422
1. If the case is made pending by a summons, Article 307 applies concerning non-attendance.
2. For the purposes of the application of Articles 411, 429 and 437, a summons presented to the defendant in person is equated with a writ of summons to appear for a hearing served on the defendant in person.

Article 423
1. If action in the case is commenced by means of a summons, the public prosecutor, if the summons only contains a brief indication of the offence with which the defendant is charged, will provide for a more detailed description of the offence with which the defendant is charged at the hearing on the commencement of the investigation, orally or, following its reading, in writing. On pain of nullity, the more detailed description shall correspond to the brief indication of the offence in the summons, subject to improvement or supplementation.
2. The summons, as improved or supplemented by the public prosecutor at the hearing if necessary, applies as a writ of summons with regard to the grounds for prosecution.
3. The more detailed description will be given to the defendant in writing at the request of the court or the defendant.

Article 424

If the defendant plausibly argues at his first hearing that, in the interests of his defence, he has need of a suspension, the court will suspend the investigation for a fixed term.

Article 425

1. After the close of the investigation at the hearing, the court will issue a judgment orally, either immediately or on the same day, at a time on the same day to be fixed by the court on the close of the investigation. The Articles 401 and 402(3), 402(4) and 402(7) shall not apply.
2. The judgment will be recorded in the record of the hearing, or an extract of the judgment, in any event containing the name of the defendant, the qualification of the criminal offence declared to be proven, the date and location of its perpetration and the sentence imposed, will suffice.
3. At the request of the defendant or the public prosecutor, the judgment will in any event be recorded in the record of the hearing and they shall have access to this.

Article 426

1. On the claim of the public prosecutor of at the request of the defendant or his counsel, the court is required to hand down its judgment in writing.
2. In no case may the judgment then take place later than on the 21st day following the date of the closure of the investigation. Article 388(4) applies likewise.

Article 427

1. After the notification concerning the legal remedy available against the sentence, both the public prosecutor and the defendant may waive the authorisation to deploy that legal remedy at the hearing. The defendant will be notified of his right to do so.
2. The waiver of legal remedies at the hearing will be reported in the record of that hearing.

Article 428

1. Title I and Title IV of this Book apply likewise to the legal proceedings before the Court of First Instance, not including the exceptions referred to in paragraphs 2 to 6.
2. The term of the summons is at least three days and at least two days if orders for the enforcement of public order have been given by the examining judge in accordance with Title VII of Book 7. If necessary, the term of two days referred to in the preceding sentence will be renewed by as much as is necessary to ensure that this covers at least one day that is not a Saturday, Sunday or generally recognised public holiday.
3. The provisions relating to the presentation of the case by the public prosecutor, the pre-trial detention and the appeal against the summons do not apply.
4. In the case of Article 333, the documents will be sent to the public prosecutor.
5. If a default judgment is handed down against the defendant, or in as far as the defendant and his counsel, if he has one, have declared that neither the reading nor the notice of the abridged content of certain designated documents is required, the reading out of charges, statements, records, expert reports or other documents referred to in

Article 337 may be replaced by a note made in the record of the hearing on the orders of the court, or the submission of the documents; consequently, these may then also be taken into account as evidence against the defendant.

6. In the case of Article 359, Articles 235 and 241 do not apply.
7. The notification referred to in Article 411 need not take place unless:
   a. Article 1:19 of the Criminal Code is applied in relation to the defendant, or,
   b. a custodial sentence is imposed, not including a replacement custodial sentence, or
   c. an additional punishment is imposed, in which the deprivation of certain rights or the deprivation of certain powers is ordered.

BOOK SIX
Legal remedies

A. Ordinary legal remedies

TITLE I
Appeals to set aside final decisions in the first instance concerning violations

Article 429

1. A person who was not acquitted of all charges in a default judgment handed down in the first instance as a final judgment in relation to a violation, and has not complied partially or fully with this, may appeal to have this judgment set aside:
   a. if the summons to appear at the hearing is served upon him in person, for 14 days after the judgment is handed down;
   b. in other cases, at least 14 days after circumstances have arisen from which it follows that he is aware of the judgment.
2. An appeal cannot be filed by the defendant against a judgment to which he may file an appeal for setting aside. An appeal action commenced by the public prosecutor lapses as soon as the defendant files an appeal for setting aside a judgment.
3. If, in the case referred to in paragraph 1a, the investigation at the hearing is suspended indefinitely and the summons to appear at the further hearing has not been served upon the defendant in person, an appeal to set aside the judgment may be filed within 14 days of circumstances arising that show that the defendant is aware of the judgment, unless the defendant nevertheless appears at the further hearing.

Article 430

1. If an appeal for setting aside a default judgment is filed, the public prosecutor will notify the defendant of the date set for the handling of the case at least seven days in advance of that date. This term may be reduced with the consent of the defendant, provided that such consent is shown in the manner provided for in Article 290(2).
2. In the absence thereof, the court will order the notification of a new court date unless the defendant has appeared. In the latter case, if the defendant requests a postponement in the interests of his defence, the investigation will be suspended for a fixed term.

Article 431
If the injured party joins the case, the public prosecutor will send him written notice of the date of the hearing.

Article 432
1. If the person who has appealed against a default judgment does not appear at the hearing on the relevant date, the appeal will be declared to have lapsed and the default judgment will be enforced or further implemented, unless the Public Prosecutors Office appeals against the default judgment.
2. However, if the defendant does not appear, the court, with the application of Article 313, may order the suspension of the investigation on one or more occasions in order to give the defendant another opportunity to appear if he was unable to attend the investigation. If the defendant fails to appear at the further hearing, the preceding paragraph applies.

Article 433
1. If a person who has appealed against a default judgment appears at the hearing on the date set, the case will be handled in accordance with Title V of Book 5, as if the proceedings had not been preceded by the default judgment. Article 365(2) applies likewise with regard to both witnesses and experts who were heard during the proceedings conducted in the absence of the defendant.
2. The court will uphold the default judgment or will adjudicate the case again, with full or partial overturning of that judgment.

TITLE II
Appeals against judgments

Article 434
Appeals may be filed against the final judgments of the court of first instance or against judgments handed down in the course of the investigation at the hearing by the Public Prosecutors Office and by a defendant who was not acquitted of all charges. If criminal offences subject to the judgment of the court were joined in the first instance, the defendant may appeal only against joined cases in which he was not acquitted of all charges.

Article 435
1. Appeals against judgments that are not final judgments are permitted only simultaneously with appeals against the final judgment.
2. Paragraph 1 does not apply if an appeal has been filed against a decision relating to the pre-trial detention.

Article 436
1. Appeals may only be filed against the entire judgment.
2. However, if criminal offences subject to the judgment of the court were joined in the first instance, appeals against the judgment may be restricted in as far as this concerns one or more joined cases.

Article 437
1. The appeal must be filed:

a. if the summons to appear at the hearing was served upon the defendant in person or the defendant appeared at the hearing, within 14 days of the final judgment being handed down;
b. in other cases, within 14 days of circumstances arising showing that the defendant was aware of the judgment.

2. If, in the case referred to in paragraph 1a, the investigation at the hearing has been suspended for an indefinite term and the summons to appear at the further hearing has not been served on the defendant in person, then unless the defendant nevertheless appears at the further hearing, the appeal will be commenced within 14 days of the date on which circumstances arise showing that the defendant is aware of the judgment.

Article 437a

If the appeal is filed by the defendant in person or by a representative authorised pursuant to Article 446(1), a summons may be served upon the defendant without delay to appear at the hearing on a particular date in order to answer charges relating to one or more of the offences of which he was charged in the first instance.

Article 438

1. After an appeal has been filed, the Clerk of the Court of First Instance will send the case documents to the registrar of the Court at the earliest opportunity.
2. If an appeal is filed by the public prosecutor only, the submission will not take place or, if it has taken place in error, will be disregarded until after the appeal has been served on the defendant in person or any circumstances have arisen showing that he is aware of the appeal.

Article 439

Within 14 days of the commencement of the appeal, the appellant may submit a document to the registry of the Court, containing the remedies and grounds on which its appeal is based. This document will be added to the case documents.

Article 439a

1. If an appeal is filed against the judgment in the first instance, but the substantive investigation at the hearing has not yet begun, the examining judge may conduct the further investigation on the claim of the Public Prosecutors Office or at the request of the defendant.
2. The investigation is conducted in accordance with the provisions of Articles 225 to 271. Article 359 applies.

Article 440

Other than in exceptional cases, a defendant who is in pre-trial detention in relation to the offence in a Country other than that in which the Court will sit will be transferred to the Country in which the Court will sit in a timely manner for the appeal hearing.

Article 440a

1. If the injured party has not joined the proceedings in the first instance, he is not authorised to do so in the appeal proceedings.
2. If the joinder took place in the first instance, it will lawfully continue on appeal, in as far as the claim was granted, even if the injured party

does not appear on appeal. The Attorney-General will notify the injured party of the date of the hearing in writing.
3. If the claim is not granted, or is only partially granted, the injured party may join the case on appeal within the limits of his first claim. With the exception of Article 70f(1) to 70f(4), Title III of Book 2 applies likewise, with the proviso that for the statement required pursuant to Article 70g, a reference to the statement with the first claim will suffice if this has remained unchanged.
4. If no appeal is filed or the appeal is withdrawn, the injured party may himself appeal to the Court against the part of the judgment in which his claim was rejected. If no appeal is filed or the appeal is withdrawn and a defence is conducted against the claim based on Article 70g(4) by the parents or guardian of the convicted minor, they may themselves appeal to the Court against the granting of the claim. Section 3 of Title IV of Book 5 does not apply. The provisions the Code of Civil Procedure concerning legal proceedings on appeal and in cassation apply likewise. No court registry fees are charged for the proceedings.

TITLE III
Appeals against decisions
Appeals

Article 441
No appeal may be filed against decisions and no appeal is permitted other than in the cases provided for in this Code.

Article 442
In as far as the public prosecutor's right of appeal is not regulated by special provisions, he may file an appeal with the Court within three days against all decisions of the Court of First Instance or the examining judge in which a petition filed pursuant to this Code is not awarded.

Article 443
1. The appeal instrument and the petition include the grounds on which these are based.
2. The decision remains in force despite any appeal.

Article 444
1. The Court will reject the appeal or objection, or order what should take place or should have taken place in accordance with the provisions of the law.
2. If the appeal or the petition against an action or decision of the examining judge is found to be well-founded, a different examining judge may be appointed in the decision of the Court for the institution or continuation of that investigation.

TITLE IV
Deployment of ordinary legal remedies

Article 445
1. Unless provided otherwise, appeals against default judgments and appeals before the court of appeal or in cassation are commenced by a declaration to be made by the person who deploys the legal remedy at

the registry of the Court of First Instance by or at which the decision was handed down.
2. The legal remedies may also be instituted in writing at the same court registry. In this case, the date of receipt by the court registry applies as the date of the appeal against a default judgment or appeal before the Court.
3. Appeals will be submitted to the same court registry.

Article 446

1. The deployment of the legal remedies referred to in Article 445 may also take place via:
   a. a lawyer specifically authorised for that purpose by the party that deploys the remedy;
   b. a representative authorised by a special written power of attorney.
2. If the representative authorised in accordance with paragraph 1 files an appeal against the final judgment, the authorisation also means that the authorised representative takes receipt of the summons of the defendant to appear at the hearing on appeal.
3. A written special power of attorney granted to an employee of the court registry to deploy the legal remedy for the defendant will be exercised only if the defendant consents to this employee taking receipt, without delay, of the summons at the court registry of the Court of First Instance at which the legal remedy will be instituted for the defendant. The defendant gives an address for the receipt of a copy of the summons.
4. The delivery of the summons to the authorised representatives is equated with the service upon the defendant in person. A written copy of the summons is sent by post to the address provided for that purpose by or on behalf of the defendant.
5. If the authorised representative referred to in paragraph 1 refused to take receipt of the summons, this will nevertheless be deemed to have been delivered at the time at which it was presented. A note of the rejection is recorded in the deed of delivery.

Article 447

1. The Clerk of the Court will draw up a deed of every declaration or submission as referred to in Articles 445 and 446, which he will sign together with the person who makes the declaration or submits the appeal. If that person is unable to sign, the cause of the impediment will be reported in the deed. The Clerk of the Court will ask the person who makes the declaration for the address to which the summons or writ of summons for the hearing can be sent.
2. The written power of attorney referred to in Article 446, or, if this was executed in one original before a civil-law notary, an authenticated copy of this, will be attached to the deed.
3. Every legal remedy deployed will be recorded in a register kept by the court registry for that purpose, which may be viewed by the interested parties.

Article 448

1. If the party wishing to deploy a legal remedy is detained in a custodial institution, then he may also deploy the legal remedies referred to in Article 445 by means of a written declaration which he sends to the head of the institution.

2. The head of the institution provides for this declaration to be recorded in the register for that purpose without delay and then sends it to the registry of the Court of First Instance by or at which the decision was handed down, with notification of the date of recording in the register of the institution. The date of the registration of the declaration in the register of the institution applies as the date on which the legal remedy is deployed.
3. The Minister determines the model of the register of the institution and may impose further rules for maintaining the register. The register of the institution may be viewed by the interested parties.
4. The declaration will be added to the case documents on receipt by the court registry. A clear note of the legal remedy deployed is made in the register, as referred to in Article 447(3), kept at the court registry.

Article 448a

1. The witness institutes the appeal referred to in Article 261a(2) by means of a written declaration which he sends to the public prosecutor. The public prosecutor records the date and time of receipt on the declaration received without delay.
2. The public prosecutor shall notify the appeal to the registry of the Court of First Instance at which the judgment was handed down in writing, without delay. The court registry will add the notice to the case documents on receipt. A note of the institution of the appeal is made without delay in a separate, private department or in the register kept in the court registry, as referred to in Article 447(3).
3. The date of the receipt of the written declaration by the public prosecutor applies as the date of the appeal.

Article 449

1. Article 446 applies likewise to the submission of documents.
2. The Clerk of the Court records the date and time of receipt on the documents received without delay.
3. The record of the receipt is made in the register kept at the court registry without delay.

TITLE V
Withdrawal and waiver of ordinary legal remedies

Article 450

1. No later than the start of the substantive handling of the appeal or petition, the person who deployed the legal remedy may withdraw this and in the case referred to in Article 436(2), may partially withdraw it. This withdrawal entails a waiver of the right to deploy the legal remedy again.
2. If the public prosecutor has filed an appeal against a judgment of the Court of First Instance, the Attorney-General is also authorised to withdraw the appeal. The Attorney-General will notify the registry of the Court and the public prosecutor of the use of this authorisation without delay.
3. The authorisation to deploy the legal remedy available against a particular decision or action may also be waived.

Article 451

1. Withdrawals and waivers take place by means of making a statement at the registry of the Court at which the legal remedy is deployed or could be deployed, respectively.
2. Articles 446 and 447 apply likewise.
3. A waiver of the legal remedy of appeal may also be made immediately after the judgment at the hearing, in which case a note of the waiver is recorded in the record of the hearing. A waiver may also be made at the hearing on appeal, as referred to in Article 450(1). In this case too, the waiver is recorded in the record of the hearing.
4. A person who is detained in a custodial institution may also make withdrawals and waivers by means of a written declaration which he sends to the head of the institution: Article 448(2), 448(3) and 448(4) applies.
5. Article 448a applies likewise with regard to the withdrawal and waiver of appeals instituted by a witness on the basis of the provisions of Article 261a(2).

Article 452

1. Written notice of a withdrawal by the Public Prosecutors Office is sent without delay to the address given by or on behalf of the defendant or known at the time of the hearing in the first instance.
2. If the injured party is notified in accordance with Article 431, he will be notified without delay of every withdrawal of the appeal against a default judgment or appeal by the Public Prosecutors Office.

B. Exceptional legal remedies

TITLE VI
Review of decisions in favour

Article 453

1. At the request of the Attorney-General or of the former defendant with regard to whom a judgment has become final, the Court of Justice may review a judgment of the court containing a conviction to the benefit of the former defendant:
   a. on the basis of the fact that with various judgments that have become final or were handed down by default, declarations of proof were issued that are not consistent;
   b. on the basis of a judgment of the European Court of Human Rights, establishing that the European Convention for the Protection of Human Rights and Fundamental Freedoms or a protocol of that Convention has been violated in the proceedings that led to the conviction or to a conviction for the same offence, if a review could lead to the restoration of rights, as referred to in Article 41 of that treaty;
   c. if there is a fact that was not known to the court in the investigation at the hearing and that does not appear to be consistent in itself or in connection with the evidence provided earlier, such that a serious suspicion arises that if this fact had been known, the investigation of the case would have led either to the acquittal of the former defendant or to a discharge from all prosecution or to a declaration of the inadmissibility of the Public Prosecutors Office, or the application of a less severe sentence.

2. Where this provision refers to a 'judgment', this includes the discharge from all prosecution with the imposition of a deprivation of liberty measure, as referred to in Articles 1:80 and 1:82 of the Criminal Code.

Article 454

1. After the death of the former defendant, the review request may be submitted by:
   a. the Attorney-General;
   b. the surviving spouse or life partner, or in the absence of such persons, or if such persons are unwilling or unable to do so;
   c. every blood relative in the direct line or in the absence of such persons, or if they are unwilling or unable to do so;
   d. the blood relatives in the collateral line, to the second degree.
2. Every authorisation awarded on the ground of this Title to the former defendant also accrues to the persons referred to in paragraph 1b, 1c and 1d who have requested a review. If the request was made by the Attorney-General, the Court will appoint a special representative.
3. The Articles of this Title apply likewise, with the proviso that after the judgment is overturned, no punishment or measure can be applied.
4. If the former defendant dies during the handling of the case, the proceedings will be continued and a special representative will be appointed by the Court. The Articles of this Title apply likewise.
5. If the former defendant has not yet reached the age of 16 or has been placed in tutelage, other than due to dissipation, or suffers from such defective development or a mental disorder that he is not able to assess whether his interests will be served by a review request, his legal representative may provide for the request to be field by his lawyer in civil cases. The Articles of this Title apply likewise.

Article 455

A lawyer will be assigned to a former defendant, as well as the persons referred to in Article 454, with the equivalent application of Section 3, Title II of Book 2 of this Code in the case of a review request, as referred to in Article 453, or a request as referred to in Article 457.

Article 456

1. The Attorney-General submits the review request to the Court by means of a written claim.
2. The former defendant may only have the review request submitted to the Court in writing by his lawyer.
3. The review request states the grounds on which the claim is based, with the addition of the evidence showing those grounds and a copy of the judgment of which a review is requested.

Article 457

1. In preparation for a review request, a former defendant who has been convicted of an offence for which the statutory description sets a prison sentence of eight years or more and which resulted in serious disruption of legal order may provide for his lawyer to request the Attorney-General to institute a further investigation into the existence of ground for a review, as referred to in Article 453(1)(c).
2. The request shall be submitted in writing and signed by the lawyer. The request includes a statement of the investigative actions that should be performed, with the attachment of a copy of the judgment of which the former defendant wishes to request a review, stating the reasons.

3. If the request does not comply with the conditions referred to in paragraphs 1 and 2, the Attorney-General will reject the request. The Attorney-General will also reject the request if:
   a. there are insufficient indications that there may be grounds for a review, or
   b. the requested investigation is not necessary.
4. The Attorney-General will take a decision at the earliest opportunity. The decision will state the reasons and will be notified to the person who submitted the request, in writing. If the request referred to in the decision is granted, the decision shall state the investigative actions to be performed.
5. Article 453(2) applies likewise.

Article 458

1. If the Attorney-General considers this necessary, or if the request referred to in Article 457 is granted, he shall institute a further inquiry. If, in his view, any investigation by the examining judge is necessary, he may claim that investigation from the examining judge responsible for the handling of criminal cases.
2. The investigation referred to in paragraph 1 will be conducted in accordance with Title III of Book 4 as far as possible. The witnesses will be sworn in or exhorted in accordance with Article 250a(2). Article 214 applies likewise.
3. If, in his view, the interests of the further investigation require this, the Attorney-General may deploy the support of an investigation team in conducting that investigation.
4. The team referred to in paragraph 3 will consist of investigating officers who have not previously been involved in the criminal proceedings. The team may be supplemented by members of the Public Prosecutors Office or experts who have not previously been involved in the criminal proceedings. The members of the investigative team will be appointed by the Attorney-General.
5. The work of the investigative team will take place under the management and responsibility of the Attorney-General.
6. If witnesses or experts are heard during the further investigation, the Attorney-General or the person who, on his orders, is responsible for the interrogation will invite the lawyer of the former defendant to attend the interrogation, in as far as this is consistent with the protection of the interests referred to in Article 227d(1). The former defendant may be given an opportunity to attend the interrogation. The former defendant and his lawyer may submit the questions that they wish to be put. Articles 227(2) and 227(3), 227b and 227d apply likewise.
7. After the investigative actions are complete, the relevant documents will be added to the case documents and the applicant will be send a copy of those documents.

Article 459

1. With regard to the investigation referred to in Article 458(3), the Articles concerning investigation in this Code apply likewise, with the proviso that references to 'the defendant' include the former defendant, in as far as the contrary does not follow from any provision.
2. Further rules on the design of the investigation may be imposed by or pursuant to a national decree containing general measures.

Article 460

1. The Court will declare the review request inadmissible if it does not concern a final judgment of the court comprising a conviction or discharge from all prosecution, as referred to in Article 453(2), or does not comply with the conditions set in Article 456.
2. The Court may declare the review request concerning the case referred to in Article 453(1)(b) inadmissible if it is not filed within three months of circumstances arising from which it follows that the former defendant is aware of the judgment of the European Court of Human Rights.
3. If the request for a review is apparently unfounded, the Court will reject it.
4. The decisions in the preceding paragraphs will be taken by decisions of the Court, stating the reasons.
5. In other cases, the following provisions of this Title apply.
6. Before handing down a decision, the Court may issue an order for further investigations, as referred to in Article 458.

Article 461

1. The Court will order the further handling of the case in open court on a date to be fixed for that purpose by the head of the bench.
2. The Attorney-General will notify the former defendant of that date, in observance of the term referred to in Article 300.

Article 462

1. The legal proceedings will be conducted by the Court with Title IV of Book 5 applying likewise.
2. The investigation and the deliberations referred to in Articles 394 and 396 will take place on the basis of both the investigation at the review hearing and the investigation in earlier hearings, as shown by records drawn up of these.

Article 463

1. If the Court finds this to be necessary, it will order the Attorney-General to conduct further investigations as referred to in Article 458. After the investigation is complete, the Attorney-General sends the documents to the Court.
2. If the Court finds the review request to be unfounded, it will reject it.

Article 464

1. If the Court finds the review request concerning the case in Article 453(1)(a) to be well-founded, it will overturn the judgments in order to simultaneously re-investigate and adjudicate them, handing down the same judgment, without any punishment to be imposed exceeding the punishments imposed under the overturned sentences.
2. The former defendant who is deprived of his liberty pursuant to the overturned decision is at liberty by law and will be released without delay, subject to the provisions of Article 466.

Article 465

1. If the Court finds the review request concerning the case in Article 453(1)(b) to be well-founded, it will reject the case by way of a review, with or without suspension or remission of the enforcement of the final decision, and will either decide to uphold the final decision or adjudicate by overturning it.

2. If the Court finds the review request concerning the case, as referred to in Article 453(1)(c), to be well-founded, it will either decide to uphold the final decision or, on overturning it:
   a. declare the Public Prosecutors Office inadmissible, or,
   b. acquit the defendant, or,
   c. discharge the defendant from all prosecution as non-punishable, or,
   d. re-convict the defendant, imposing the less severe sentence or a lower penalty.
3. Article 464(2) applies likewise.

Article 466

1. The Court may issue an imprisonment order against the former defendant. This order is valid for an indefinite term, but may be suspended or withdrawn by the Court. In no case may this imprisonment last longer than the custodial sentence imposed on the former defendant pursuant to the final decision, which has yet to be served. The Articles concerning pre-trial detention apply likewise.
2. If a custodial measure was imposed on the former defendant in the final judgment, the imprisonment order referred to in paragraph 1 may be enforced in an institution intended for the enforcement of the measure imposed. The former defendant's legal position remains applicable in full.
3. If the former defendant against whom an imprisonment order, within the meaning of paragraph 1, has been enforced has no lawyer, he will be assigned one officially on the orders of the presiding judge of the Court.
4. Pending the decision on the request for a review, the Court may suspend the enforcement of the final judgment at any time.

Article 467

1. Reasons shall be given for decisions as referred to in Articles 461 and 463 to 465. The sentence will be handed down in open court in the presence of the Clerk of the Court and the Attorney-General.
2. The Attorney-General will notify the interested party of the decisions of the Court, as referred to in Articles 461 and 463 to 466, in writing at the earliest opportunity and will send a copy to the officer responsible for the enforcement of the final decision for which the review was requested, or of the overturned sentence.

Article 468

(no text)

Article 469

1. In no case may the Court impose a punishment or measure more severe than that imposed by the overturned sentence or apply a more severe sentence.
2. If a single main punishment is imposed in the event of the concurrence of several offences and the review is requested only in relation to one or more of those offences, if the decision is overturned, the punishment for the other offence or the other offences will be imposed with the judgment in the review.
3. In the judgment, the sentence already served earlier for the offence pursuant to the overturned judgment and the pre-trial detention served pursuant to Article 466 will be deducted from the sentence.

Article 470

1. If the punishment or measure imposed in the final judgment has already been discharged by way of a pardon, no punishment may be imposed.
2. If the sentence has been changed or reduced by way of a pardon, no punishment will be imposed in excess of the changed or reduced sentence.

Article 471

1. If no punishment or measure is imposed after the final judgment is overturned, compensation for damage will be awarded at the request of the former defendant or of his heirs. The award will take place in as far as grounds of fairness exist for this in the view of the Court, based on Title II of Book 8.
2. These Articles apply likewise with regard to the detention and any pre-trial detention.

Article 472

1. If a review request is submitted or a further investigation, as referred to in Article 458, is conducted, the Public Prosecutors Office will, if possible, ask the victim or his surviving dependants whether they wish to be kept informed of the progress of the review procedure.
2. At the request of the victim or his surviving dependants, the Public Prosecutors Office will in any event notify the defendant of the decision of the Court concerning the request for a review and of the final decision in the review case. If possible, the Public Prosecutors Office will give notice of the release of the former defendant on request.

Article 473

1. If the former defendant was ordered to compensate the injured party in the overturned sentence for the damage caused by the criminal offence, the judgment in review may order that compensation for damage already paid be reimbursed to the former defendant. These costs will be reimbursed from the national treasury.
2. Paragraph 1 applies likewise to the legal costs paid by the former defendant to the injured party.

Article 474

No judge who took part in any way in the investigation or the adjudication of the case for which a review is requested may participate in the investigation or adjudication in review.

TITLE VII
Review of decisions against

Article 475

1. At the request of the Attorney-General, the Court of Justice may review a final judgment ordering acquittal or dismissal from all prosecution against the former defendant if this is in the interests of good administration of justice and:
   a. there is a fact that was not known to the court in the investigation at the hearing, as a result of which a serious suspicion arises that if this fact had been known, the case would have ended with a conviction of the former defendant for the murder of another person;

b. the judgment is based on documents which were proved to be false after the judgment and a serious suspicion exists that if the court had been aware of the falsity, the case would have ended with a conviction of the former defendant;
c. it has been established that a witness or expert committed the offence described in Article 2:165 of the Criminal Code in relation to the case and there is a serious suspicion that if the court had been aware of the perjury, the case would have ended with a conviction of the former defendant;
d. it was established after the judgment became final that the former defendant committed one of the criminal offences described in Articles 2:128 to 2:130, 2:132 and 2:254 to 2:256 of the Criminal Code in relation to his criminal proceedings and there is a serious suspicion that if the defendant had not committed this offence, the case would have ended with a conviction of the former defendant.

2. A review of a final judgment against the former defendant is also possible if it has been established that the judge committed a criminal offence, as described in Article 2:352 of the Criminal Code, in relation to the case that was subject to his judgment.
3. Only the following qualify as 'facts' as referred to in paragraph 1a:
   a. statements, written documents or records containing a credible admission of the former defendant or of a person who was acquitted or discharged in relation to the same offence, or
   b. the results of the technical investigation.
4. If the evidence referred to in Article 475a(2) is the result of an investigation that did not take place in accordance with the statutory provisions and involved a breach of a right of the former defendant, this evidence will be disregarded in the assessment of the review request and will not be used as evidence in the criminal proceedings.
5. An offence as referred to in paragraph 1a does not include aiding and abetting, attempts at and preparation of that offence.

Article 475a

1. The Attorney-General submits the review request to the Court by means of a written claim. To that end, the Attorney-General may exercise one or more of the powers referred to in this Title.
2. The review request states the grounds on which the claim is based, with the addition of the evidence showing those grounds and a copy of the judgment of which a review is claimed.
3. No judge who took part in any way in the investigation or the adjudication of the case for which a review is requested may participate in the investigation or adjudication in review.
4. The Court will declare the review request to be inadmissible if:
   a. it does not comply with the requirements set in paragraphs 1 and 2;
   b. at the time at which the review request was submitted, the right to the criminal proceedings for the criminal offence to which the request relates has lapsed through prescription or through the death of the former defendant;
   c. the review request concerns the case referred to in Article 475(1)(a) and a review of a final judgment of the court on the same offence has already been conducted in the Country, or
   d. the review request does not concern an irrevocable final judgment.
5. The Court will reject the review request if this appears to be unfounded.
6. In the other cases, Articles 461 to 463 apply likewise, as do the following provisions of this Title.

Article 475b

1. Subject to the provisions of Article 475d, in an investigation into the presence of grounds for a review, as referred to in Article 475, the powers assigned to investigating officers in this Act are not exercised against a former defendant.
2. In preparation for a review request, a public prosecutor designated for that purpose by the Attorney-General may submit a claim for a further investigation to the examining judge responsible for the handling of criminal proceedings who has not yet heard the case, if:
   a. the possibility that the Court of Justice will find a review request to be well-founded must be seriously taken into account and
   b. that investigation is urgently necessary.
3. The claim of the public prosecutor comprises a statement of the investigative actions that should be performed by the examining judge and states the reasons. The claim requires the prior written consent of the Attorney-General.
4. As soon as the interests of the investigation permit, the public prosecutor notifies the former defendant and his lawyer of the claim in writing.
5. The examining judge will reject the claim if he finds it to be unfounded.
6. In the opposite case, he will hear the former defendant on the public prosecutor's claim before issuing a decision, unless the interests of the investigation urgently require the waiver of the hearing of the former defendant on that claim.
7. The former defendant is authorised to provide for the support of a lawyer at the hearing.

Article 475c

1. The examining judge will decide on the claim referred to in Article 475b(2) at the earliest opportunity. The decision states the reasons and is notified in writing to the public prosecutor and is served upon the former defendant, stating the term within which and the manner in which the legal remedy available against the decision should be instituted. If this is urgently required in the interests of the investigation, the examining judge may postpone the service of the decision upon the former defendant.

2. The public prosecutor has 14 days after the decision is handed down, and the former defendant 14 days after the decision is served, to file an appeal with the Court of Justice.
3. The Court will hand down a decision at the earliest opportunity.

Article 475d

1. If the claim, as referred to in Article 475b(2), is granted, the examining judge will perform the requested investigative actions at the earliest opportunity, as well as such other actions as he considers necessary. The examining judge will not perform the investigative actions while the possibility of appealing his decision remains open and if an appeal is filed, until it is withdrawn or a decision is handed down, unless the interests of the investigation brook no delay of the proposed investigative actions. If the Court finds an appeal against a decision to start an investigation to be well-founded and the examining judge has already performed investigative actions, the examining judge will ensure that the results of this investigation are destroyed.

2. During the further investigation, the examining judge holds the powers assigned to him pursuant to this Code. with the proviso that, without prejudice to provisions of Articles 92 and 93, he may only issue an order for custody of the former defendant with the leave of the Court, granted in response to the claim of the Attorney-General, if:
   a. certain conduct of the defendant or certain circumstances concerning him personally, reveal a serious risk of flight, or
   b. the pre-trial detention is reasonably necessary for revealing the truth, other than through statements of the former defendant.
3. By way of derogation from the provisions of Article 93, the examining judge may renew the custody order on one occasion by a maximum of 14 days, with the leave of the Court granted on the claim of the Attorney-General. The defendant will be given an opportunity to be heard in relation to the claim.
4. After the investigative actions are complete, the examining judge will send the documents relating to these to the public prosecutor. He will send a copy to the former defendant and his lawyer.
5. The examining judge will notify the public prosecutor and the former defendant of the closure of the investigation.

Article 475e

1. Pending the decision on the review request, the Court may issue a warrant for the arrest of the former defendant or an order for his detention, officially or in response to a written claim of the Attorney-General. This warrant or order will remain in force for 60 days from the date on which a decision is taken on the review request, but may be suspended or withdrawn by the Court. Articles 90, 100, 101, 103, 106 and 109 to 116 apply likewise, with the proviso that a warrant for pre-trial detention can be issued only if:
   a. certain conduct of the defendant or certain circumstances concerning him personally, reveal a serious risk of flight, or
   b. the pre-trial detention is reasonably necessary for revealing the truth, other than through statements of the former defendant.
2. If the review request is found to be inadmissible or unfounded, the former defendant will be released without delay.
3. If the review request is found to be inadmissible or unfounded, the Court, at the request of the former defendant, may award him compensation charged to the Country, for the damage that he has suffered. Title II of Book 8 applies likewise.

Article 475f

1. If, following the public hearing of the case, the Court rejects the request, the Court may award the former defendant compensation for the damage he suffered, to be borne by the Country. Title II of Book 8 applies likewise.
2. If the Court finds the review request to be well-founded it will overturn the earlier release or discharge from all prosecution.
3. The Court, with a different bench, on pain of nullity, from the bench which found the review request to be well-founded, will review the sentence and will again administer justice in accordance with Article 394(1).
4. Article 469(2) and 469(3) applies likewise.

Article 475g

1. Decisions as referred to in Article 475a(4) and 475a(5) and in Article 475f (1) will state the reasons and will be handed down in open court in the presence of the Clerk of the Court and the Attorney-General.
2. The decisions of the Court, as referred to in paragraph 1, will be notified to all interested parties in writing by the Attorney-General, without delay.

Article 475h

1. A lawyer will be assigned to a former defendant who has no lawyer, with the equivalent application of Section 3, Title II of Book 2 of this Code not only in the case of a review request, as referred to in Article 475, but also in the case of a claim, as referred to in Article 475b(2).
2. The assignment referred to in the last case in paragraph 1 takes place for the duration of the handling by the examining judge.
3. The assignment of the lawyer is free of charge in all instances.

BOOK SEVEN
Some jurisprudence of an exceptional nature

TITLE I
Criminal proceedings concerning official misconduct

Article 476

1. In the investigation of the offences defined as criminal offences in Title XXVIII of Book 2 of the Criminal Code or a criminal offence defined as such in the Constitution for that purpose, as well as in the enforcement of sentences and measures imposed in relation to these offences, if a Minister, not being a Minister of the Kingdom in Europe, is designated as a defendant or convict, the powers of the public prosecutor are exercised by the Attorney-General or by a member of the Public Prosecutors Office especially designated by the Attorney-General to act on his behalf, in both the first instance and on appeal.
2. The prosecution of offences as referred to in paragraph 1 may takes place only after an authorisation is obtained from the Court in response to a claim of the Attorney-General. Title IV of Book 1 applies likewise.
3. In this Article, State Secretaries and persons who held these positions during the alleged offences are equated with a Minister. By way of derogation from the definition in Article 1, in this provision, 'Minister' refers to a Minister in the government of the Country.
4. Criminal offences committed under the aggravating circumstances described in Article 1:116 of the Criminal Code are equated with 'offences', as referred to in this Article.
5. The preceding paragraphs apply likewise with regard to members of the Administrative Board, the Island Council and the Parliamant.

TITLE II
Criminal proceedings in cases concerning juveniles

Section 1
General provisions

Article 477

No person may be prosecuted under criminal law before reaching the age of 12.

Article 478

1. In cases in which facts or circumstances give rise to a reasonable suspicion that a minor aged less than 12 has committed a criminal offence, only Articles 72 to 80, 82, 120 to 129a and 141 to 154 apply.
2. In civil cases, the legal representative of a minor, as referred to in paragraph 1, makes the statements referred to in Article 144 and files the complaints referred to in Article 150 on behalf of that minor.

Section 2
Criminal proceedings in cases concerning persons who had not yet reached the age of 18 at the time when their prosecution commenced

Article 479

With regard to persons who, at the time when their prosecution commences, have not yet reached the age of 18, the provisions of this Code apply in as far as this Section contains no derogating provisions.

Article 480

The provisions of this Section relating to parents or guardians apply only if the defendant is a minor.

Article 481

1. A legal counsel is assigned to the defendant before he is heard for the first time in relation to a criminal offence. The public prosecutor or the assistant public prosecutor notifies the institution responsible for the assignment pursuant to Article 61(1) that the assignment must take place, without delay. Until the assignment has taken place, the right of Article 67(1) also applies to a parent or guardian.
2. The counsel, or a parent, guardian or confidential counsellor have the right to attend the examination at all times.
3. By way of derogation from Article 82(7), the assistant public prosecutor who orders that the defendant be held for questioning when he is brought forward will notify the parents or guardian of the deprivation of liberty and the reasons for this at the earliest opportunity.
4. If the notice referred to in paragraph 3 with the application of Article 82(9) is postponed, the assistant public prosecutor will notify the juvenile probation service of the defendant’s deprivation of liberty.

Article 481a

1. The defendant may not waive the consultation of the counsel referred to in Article 48a(1) prior to the examination.
2. During the consultation referred to in paragraph 1, the legal counsel discusses with the defendant the need for his attendance during the examination and notifies the assistant public prosecutor of the outcome of this consultation. At the request of the defendant or his parents or guardian, the counsel will provide legal assistance during the examination.

Article 482

If the defendant is deprived of his liberty by law, Article 70 applies likewise to his parents or guardian.

Article 483

1. The public prosecutor may decide that the enforcement of the remand in custody will be suspended if the defendant has declared himself willing to comply with the conditions to be attached to the suspension.
2. A general condition with which the defendant must comply is that he shall not commit any criminal offence or misbehave in any other way. Special conditions may also be imposed concerning the behaviour of the defendant; these may not limit his religious or political freedoms.
3. The suspension ordered pursuant to paragraph 1 may be withdrawn only on the grounds of violation of the conditions set. The reasons for the withdrawal order shall be stated. The defendant will be heard at the earliest opportunity.
4. The term for which a remand in custody order is in force shall not run during the time in which the enforcement is suspended.
5. Unless withdrawn earlier, the remand in custody order of which enforcement has been suspended will be withdrawn at the end of the sixth day following that on which the order is issued.

Article 484

1. If the court orders the defendant's pre-trial detention, it will consider whether the enforcement of this order can be suspended, either immediately or after a certain passage of time.
2. Such conditions will be attached to the pre-trial detention order and its suspension as are deemed to be necessary for its correct execution.
3. Every suitable location may be designated for serving remand in custody or pre-trial detention.

Article 485

References in this Section to 'suspension' include interruption.

Article 486

1. The public prosecutor will notify the juvenile probation service of a remand in custody order and of an order for its suspension or withdrawal.
2. If a report is made in response to the notification referred to in paragraph 1, the public prosecutor will take this into consideration before making a claim for a custodial sentence.

Article 487

1. If the public prosecutor intends to prosecute a suspect of a criminal offence, he will notify the juvenile probation service of this at the earliest opportunity. The juvenile probation service will inform the public prosecutor on request with regard to the personality and life circumstances of the defendant. The juvenile probation service may also provide such information on its own initiative.
2. If the defendant is in pre-trial detention or is admitted to an institution pursuant to Article 175, the public prosecutor will notify the juvenile probation service of this without delay.
3. The examining judge is also authorised to gather the information referred to in paragraph 1 from the juvenile probation service.

Article 488

1. The legal proceedings will be conducted in open court unless the defendant or his co-defendants had not yet reached the age of 16 at

the time when their prosecution commenced. In that case, the court may grant special permission to attend this hearing in camera.
2. For serious reasons to be reported in the record of the hearing, the court may decide, either officially or on the claim of the Public Prosecutors Office or at the request of the defendant, that if the court case must be conducted in open court pursuant to the provisions of paragraph 1, part or all of the proceedings will take place in camera. In that case, the court may grant special permission to attend this hearing in camera.
3. If the case is heard in camera, the parents or guardian and the victim or his surviving dependants are permitted to attend unless the court rules otherwise for special reasons.
4. For serious reasons to be reported in the record of the hearing, the court may decide, either officially or on the claim of the Public Prosecutors Office or at the request of the defendant or his legal counsel, that if the court case must be conducted in camera pursuant to the provisions of paragraph 1, part or all of the proceedings will take place in open court.

Article 489
1. The parents or the guardian will be called to attend the hearing.
2. If the parents or guardian appear at the hearing, they will be given an opportunity, after the defendant, a co-defendant, a witness or an expert has made his statement, to submit what can serve as a defence against these statements.
3. Nevertheless, the court may order, officially, on the claim of the Public Prosecutors Office or at the request of the defendant or his legal counsel, that during a hearing in camera, an examination of the defendant, a witness or an expert will take place in the absence of the parents or guardian. In that case, the court will notify the parents or guardian of the substance of these statements unless serious reasons oppose this.

Article 490
1. Officially, on the claim of the Public Prosecutors Office or at the request of the legal counsel, the court may decide that questions concerning the personality or living conditions of the defendant will be put and handled in his absence and that the Public Prosecution Service or the counsel will address the court in that regard in the absence of the defendant.
2. Article 332(2) applies likewise.

Article 491
If the court considers it necessary that an investigation will be set up into the personality and living conditions of the defendant, it may gather further information from the juvenile probation service.

Article 492
(no text)

Article 493
If the action commenced by means of a summons, the offence for which the defendant is charged will be included in the summons of the parents or the guardian. In the case referred to in the opening sentences of Article 420, that Article applies likewise to the method of summonsing the parents or guardian and if necessary, to the withdrawal of this summons.

Article 494

1. If a defendant who had not yet reached the age of 16 at the time at which their prosecution commenced has a legal counsel, all powers assigned to him in this Code, with the exception of Title IV, Book 5, will also be assigned to his legal counsel.
2. In the case of paragraph 1, the defendant or his legal representative may, within three days of the end of the term for setting this up, submit a note of objection to the court in the first instance or the head of the bench before which the case is prosecuted or was last prosecuted against the institution, withdrawal or waiver of any legal remedy by the counsel. The court in the first instance or the head of the bench will take a decision at the earliest opportunity; the defendant, his legal representative and the counsel will be heard, or at least called in the manner determined by the court in the first instance or head of the bench. If the note of objection is found to be well-founded, the term for commencing action on or withdrawing the legal remedy will be three days.

Article 495

(no text)

Article 496

(no text)

Article 497

1. In as far as not provided otherwise, the parents or guardian of a minor defendant, as well as his legal counsel, will also be notified of all summonses, subpoenas, notices, reports or other written notices to the minor
2. The provisions of paragraph 1 do not apply with regard to the counsel in cases concerning violations, including on appeal in such cases, nor do they apply to parents or guardians where they are summoned in accordance with Article 416.

Article 498

All servicing, subpoenas, summonses, notices, announcements or other notifications to parents or guardians take place only if these have a known place of residence within the Country; parents who are cohabiting will be issued with one document only.

TITLE III
Criminal proceedings concerning withdrawal of unlawfully acquired benefits

Article 499

1. Action on a claim of the Public Prosecutors Office as referred to in Article 1:77 of the Criminal Code will be commenced as soon as possible after the judgment of the Court in the First Instance is handed down.
2. Together with his claim, the public prosecutor will send the documents on which his claim is based to the Court of First Instance. The first sentence of Article 284(3) applies likewise.

3. The claim will be served upon the person to whom it relates, with notice of the right to access the documents. If a criminal financial investigation has also been instigated, this will end by law.
4. The claim includes the summons to appear at the hearing at the time stated therein. Articles 287 and 289 to 292 apply likewise.

Article 500

As long as the investigation at the hearing has not been closed, the public prosecutor may enter into a written settlement agreement with the defendant or convict to pay a sum of money to the Country or to transfer objects for full or partial withdrawal of the estimated benefits, including cost savings, acquired by the person concerned by means of or from the benefits of the offence for which he has been prosecuted or similar offences.

Article 501

1. Section 2, Title IV, Book 5 applies likewise to the handling of the public prosecutor's claim. The handling of the claim at the hearing may be preceded by written preparation for the method to be determined by the court. Further rules may be imposed in that regard by national decree containing general measures.
2. If any further criminal financial investigation proves to be necessary, the Court of First Instance will hand the documents to the public prosecutor, suspending the case, stating the subject of the investigation and if necessary, the way in which this will be instigated.
3. The investigation qualifies as a criminal financial investigation instituted with judicial authorisation that will be conducted in accordance with the provisions of Title XVI of Book 3, with the exception of Article 177g(4) and 177g(5).

Article 502

1. The provisions of Section 5, Title IV, Book 5 apply likewise to the deliberations and the judgment, with the proviso that:
   a. In response to the claim and the investigation at the hearing, the Court of First Instance will deliberate on the question of whether the measure referred to in Article 1:77 of the Criminal Code should be imposed and if so, at which amount the scale of the unlawfully acquired benefits can be estimated; and
   b. In setting the term within which judgment must be handed down, the Court is not bound by the regulation of Article 388 concerning the term within which judgment must be handed down; and
   c. The reasons for a decision by the Court that there are enough indications that the convict has committed other offences, as referred to in Article 1:77(2) of the Criminal Code, will be stated with the decision.
2. If the date of the judgment is not notified at the hearing to the person to whom the claim relates, he will be notified of this as soon as that date has been fixed.
3. If the court's deliberations show that the investigation at the hearing was not complete in accordance with Article 501(2) and 501(3), the court will provide for an investigation by the public prosecutor. In this case, action will be taken as if the investigation had been suspended indefinitely.

Article 503

The Court of First Instance may only derive the estimate of the valuable benefit referred to in Article 1:77 of the Criminal Code from the content of the legal evidence.

Article 503a

1. An appeal may be filed against the judgment of the Court of First Instance.
2. Title III and title IV (with the exception of Section 1) of Book 5 and Title II of Book 6 apply likewise, with the proviso that:
   a. the case will be brought for hearing on appeal by a summons of the Attorney-General which will be served on the defendant or the convict;
   b. the handling of the claim for which an appeal is filed may be preceded by a written preparation of the method to be determined by the court. Further rules may be imposed in that regard by national decree containing general measures.
   c. Articles 501(2), 501(3) and 502(3) apply likewise. In these cases, the financial investigation will be conducted by the public prosecutor by the court that handed down a judgment in the first instance. After the end of the investigation ordered, the public prosecutor sends the documents to the Attorney-General;
   d. Article 502(1)(b) applies likewise.

Article 503b

A judgment on the claim from the Public Prosecutors Office, as referred to in section 1:77 of the Criminal Code, lapses by law because the judgment as a result of which the conviction of the defendant referred to in Section 1:77(1) and 1:77(3) of the Criminal Code was not handed down, becomes a final decision.

TITLE IV
Recusal and rejection of judges

Article 504

A judge may recuse himself from a case if facts or circumstances exist with regard to him which could lead to harm to judicial impartiality. A judge who has recused himself no longer has any involvement in the case in question. If a judge recuses himself during the investigation at the hearing, that investigation will be suspended and the investigation at the hearing will recommence, either immediately or at a later hearing. Articles 314, 362 and 363 apply likewise.

Article 505

(no text)

Article 506

(no text)

Article 507

(no text)

Article 508

As soon as no facts or circumstances relating to a judge exist as a result of which the impartiality of the courts in general could suffer harm, their

rejection may be proposed orally at the hearing or in writing by the Public Prosecutors Office or by the defendant.

Article 509

1. The reasons for rejection will all by submitted at the same time. During a hearing, this will take place before the judge whose rejection is requested.
2. A new rejection of the same judge may be proposed only for reasons that arose or became known after the first proposal.
3. During the investigation at the hearing, a rejection can no longer be submitted after the submission of the case by the Public Prosecutors Office, as referred to in Article 318, except for reasons that first arose or became known in the course of that investigation.
4. If the request is made at the hearing, the handling at the hearing will be suspended for an indefinite period. Articles 314, 362 and 363 apply likewise.

Article 510

The judge whose rejection is requested may accept the rejection.

Article 511

The request for rejection will be handled in open court at the earliest opportunity by a bench of the Court on which the judge whose rejection is requested will not sit.

Article 512

1. The applicant and the judge whose rejection is requested will be given an opportunity to be heard or to present their views in writing.
2. The Court shall hand down a decision at the earliest opportunity. If the rejection is based on a particular court decision, the rejection will not be admissible.
3. The reasons for the decision will be stated and the decision will be notified without delay to the defendant, the Public Prosecutors Office and the judge whose rejection is requested.
4. In the case of abuse, the Court may decide that a subsequent request will not be handled. This is reported in the decision.

Article 513

No legal remedy is available against the decision on the rejection.

Article 514

(no text)

Article 515

(no text)

TITLE V
Prosecution and sentencing of legal entities and other alliances

Article 516

1. If prosecution action is commenced against a legal entity, special-purpose reserve or a shipping company, that legal entity or special-purpose reserve will be represented during the prosecution by its

managing director or, if there is more than one managing director, by one of them and the shipping company will be represented by its accountant or one of the members of the shipping company. The representative may be represented by an authorised representative.
2. If the prosecution action is instituted against a trading partnership or partnership firm without the status of a legal entity, these will be represented during the prosecution by the liable partner or, if there is more than one liable partner, by one of them. The representative may be represented by an authorised representative.
3. The court may order the personal appearance of a particular managing director or partner; if they fail to appear, the court may order that they be brought forward.

Article 517

1. If the prosecution action is instituted against a legal entity, judicial notifications will be sent to:
   a. the seat of the legal entity, or
   b. the location of the offices of the legal entity, or
   c. the address of one of the managing directors.
2. Judicial notifications will be served by delivery to one of the managing directors or to a person authorised by the legal entity to take receipt of the document. In these cases, the delivery is made by means of service in person. Delivery to these persons may take place at a different location from those referred to in paragraph 1.
3. The delivery of a judicial notification, as referred to in paragraph 2, may also take place at one of the locations referred to in paragraph 1, to any person in the employ of the legal entity who has declared themselves willing to deliver the notification.

Article 518

1. If the prosecution action is instituted against a trading partnership or a partnership firm without the status of a legal entity, the delivery of judicial notifications will take place to:
   a. the location of the offices of the partnership company, or
   b. the address of one of the liable partners.
2. A judicial notification will be served through delivery to one of the liable partners or to a person who is authorised by one or more of them to take receipt of the document. In these cases, the delivery is made by means of service in person. Delivery to these persons may take place at a different location from those referred to in paragraph 1.
3. The delivery of a judicial notification, as referred to in paragraph 2, may also take place at one of the locations described in paragraph 1, to every person in the employ of the trading company or partnership firm or to a liable partner who has declared himself willing to deliver the notification.
4. The preceding paragraphs apply likewise in the prosecution of a special-purpose reserve or shipping company; in that case, the managing directors or the accountant and the members of the shipping company act in place of the liable partners.

Article 519

If the delivery cannot take place in accordance with the preceding Articles, the document will be returned to the authority from which it came and will then be delivered to the Registrar of the Court of First Instance. The

Registrar then sends the document to the address shown in the document without delay and notes this on the deed of delivery.

Article 520
Articles 642 to 647 apply likewise to the delivery of judicial notifications to a legal entity, trading partnership or partnership firm without the status of a legal entity, a special-purpose reserve or a shipping company.

TITLE VI
Criminal proceedings at sea or in the air

Section 1
General

Article 521
1. The powers assigned by any statutory provision in connection with the detection of criminal offences or in connection with investigations into these, other than at the hearing, may, in as far as this Title does not provide otherwise, be exercised at sea or in the air, including outside the jurisdiction of the Country.
2. The provisions of Sections 1 and 2 of this Title apply only with regard to detection and investigation at sea or in the air, including outside the jurisdiction of the Country. In as far as they relate to a detained person or a seized object, they remain applicable until the detainee or the object has been surrendered to the authorised public prosecutor or an assistant officer.
3. The powers awarded in the provisions of this Title may be exercised only in as far as this is permitted by international law and inter-regional law.

Article 522
1. Persons other than investigating officers may not exercise the powers referred to in Article 521 or in the Section to of this Title other than on the instructions and under the responsibility of the authorised public prosecutor, unless it is not possible to await such instructions.
2. Every person who has exercised powers as referred to in paragraph 1 will notify the public prosecutor without delay and in the fastest manner possible of:
   a. the criminal offence of which he has become aware;
   b. every measure that he has taken pursuant to the powers referred to in paragraph 1.
3. In the case of the notification referred to in paragraph 2, he shall report the personal details of the suspect and his nationality as far as possible, as well as his own personal details and other relevant facts. He shall also attempt to obtain instructions from the public prosecutor as soon as possible regarding the way in which action should be taken in that regard. He shall observe the instructions of the public prosecutor.
4. The provisions of paragraphs 1 and 2 also apply for the party to which a detained suspect or seized object is surrendered.
5. The provisions of paragraphs 1 and 2 do not apply for members of the judiciary in relation to the actions for which they are authorised as such.

Article 523

1. In the event of a criminal offence, the commanding officer may, in observance of the provisions of this Title, gather information and evidence that may serve to clarify the case, unless the public prosecutor decides otherwise.
2. The same authorisation accrues to the shipmaster and to the captain of an aircraft on board the vessel or aircraft under their authority. The term 'vessel' also refers to an installation at sea.

Article 524
(no text)

Article 525
1. The commanding officer may assign an action for which he is authorised pursuant to the provisions of this Title to an officer under his command.
2. The shipmaster may assign an action for which he is authorised pursuant to the provisions of this Title to a ship's officer under his command.
3. The captain of an aircraft may assign an action for which he is authorised pursuant to the provisions of this Title to a member of the crew under his command.

Article 526
1. The commanding officer, the shipmaster or the captain of an aircraft, if he exercises one of the powers assigned to him in Articles 521 or 523 or in Section 2 of this Title, shall personally draw up a record of his actions and findings at the earliest opportunity.
2. In the case of the application of Article, 525, the officer, ship's officer or crew member of an aircraft acts in compliance with paragraph 1.
3. When the shipmaster or a ship's officer or the captain of an aircraft or a crew member interrogates the defendant or witnesses, if possible, two crew members or passengers will be in attendance, who will co-sign the record of the interrogation.
4. The record is dated by the reporting officer. In as far as possible, he explicitly reports the reasons for his knowledge.
5. The record of the officer, the ship's officer or the crew member of an aircraft will be co-signed by the commanding officer or the shipmaster and the captain of the aircraft. The commanding officer, shipmaster or the captain of the aircraft will send the record to the public prosecutor at the earliest opportunity, unless the public prosecutor decides otherwise.

Section 2
Application of some special coercive remedies

Article 527
The authorisation described in Article 72 also accrues to the commanding officer, shipmaster and the captain of an aircraft.

Article 528
1. The suspect may only be detained:
   a. if he is caught in the act by any party while committing a criminal offence;
   b. if he is caught in the act while committing a violation, by an investigating officer, a commanding officer, shipmaster or captain of an aircraft;

c. in cases other than when the suspect is caught in the act, if a criminal offence described in Article 3:17 of the Criminal Code is involved, by an investigating officer, a commanding officer or shipmaster or captain of an aircraft;

2. In the cases referred to in paragraph 1, the public prosecutor may order the arrest of the suspect.

Article 529

An arrested suspect will be handed over without delay:

a. by any person to the public prosecutor, if he is present at the location;
b. by the commanding officer, shipmaster or captain of an aircraft to an investigating officer, if he is present at the location;
c. by a passenger who is not an investigating officer, to the shipmaster and by a passenger of an aircraft who is not an investigating officer, to the captain of the aircraft;
d. by other persons to an investigating officer or to a commanding officer.

Article 530

1. The public prosecutor may decide that the arrested suspect will be questioned. To that end, he may order the surrender of the suspect to a particular person or his transfer to a particular location.
2. Unless the public prosecutor decides otherwise, the investigating officer is authorised to interrogate the detained suspect. In the absence of an investigating officer, equivalent powers accrue to the commanding officer, the shipmaster and to the captain of the aircraft.
3. The person authorised to interrogate the suspect is also authorised to take him to a location for interrogation.
4. Article 50 applies likewise in the case of interrogation by the shipmaster or a ship's officer or by the captain of an aircraft or a member of the crew.

Article 531

1. After being questioned, the detained suspect will be released without delay. He may not be detained for questioning for more than nine hours, with the proviso that the time between 10.00 p.m. and 8.00 a.m. will not be included.

2. Nevertheless, the suspect may not be detained for more than nine hours:

   a. if an order is issued for his pre-trial detention and the enforcement of that order at sea or in the air was also ordered;
   b. if he is suspected of a criminal offence for which the statutory description sets a prison sentence of four years or more and an order for pre-trial detention can be issued against him in that regard.

3. A decision to detain the suspect for more than nine hours in the case referred to in paragraph 2b is taken by the public prosecutor. If it is not possible to await his action, the investigating officer, the commanding officer, the shipmaster or the captain of the aircraft who holds the suspect may decide to do so.

Article 532

1. As soon the public prosecutor has taken a decision as referred to in Article 531(3), he shall submit a claim for custody to the examining judge.

2. As soon the public prosecutor hears that an investigating officer, a commanding officer, a shipmaster or a captain of an aircraft has taken a decision as referred to in Article 531(3), he shall submit a claim for custody to the examining judge or will order the immediate release of the suspect.
3. If the decision referred to in Article 531(3) relates to a suspect held on board an aircraft, the following provisions apply:
   a. in the case referred to in paragraph 1, the public prosecutor submits a claim for custody to the examining judge or orders the captain, if the latter is authorised to surrender the suspect to the authorities of the state in which the aircraft will land, to make use of that authorisation;
   b. in the case referred to in paragraph 2, he shall take one of the measures referred to in sub-paragraph a or order the immediate release of the suspect.
4. During the interrogation referred to in Articles 92(3) and 97, the suspect may provide to be represented by a legal counsel.
5. If the claim for custody is rejected, the public prosecutor orders the immediate release of the suspect. He shall also order the release of the suspect as soon as no entitlement to deprivation of liberty is present any longer or the grounds for deprivation of liberty have lapsed.
6. Until the person holding the suspect has received a message from the public prosecutor, he is required to release the suspect at his own initiative as soon as he believes that the grounds for deprivation of liberty have lapsed; in any event, he shall release the suspect if he has received no message within 18 days of the arrest that an order for pre-trial detention has been issued, the enforcement of which is also ordered at sea or in the air.

Article 533

1. A suspect to whom Article 531(2)(a) applies will be surrendered to the public prosecutor at the earliest opportunity; a suspect to whom Article 531(2)(b) applies may be surrendered to the public prosecutor if it is not practical to detain him elsewhere, until an order for pre-trial detention is issued against him and the enforcement at sea or in the air is also ordered.
2. The public prosecutor will be notified of the intention to surrender the suspect without delay.

Article 534

1. The persons holding a detained suspect will ensure that the necessary measures are taken to prevent missing the objective of the deprivation of liberty. The suspect may not be subjected to restrictions other than those that are entirely necessary for that purpose.
2. The suspect will be given an opportunity to contact a legal counsel.

Article 535

1. The public prosecutor may decide that a detainee in relation to whom there are serious complaints may be subjected to a body search or search of his clothing. Article 78(2), 78(3) and 78(5) apply.
2. If no investigating officer is present at the location, the authorisation referred to in paragraph 1 also accrues to the commanding officer, the shipmaster and the captain of the aircraft.

Article 536

1. Investigating officers are authorised at all times to seize objects that qualify for this and may claim their surrender for that purpose. The public prosecutor may order the seizure of objects qualifying for that purpose.
2. If a suspect is caught in the act, the powers referred to in the first sentence of paragraph 1 accrue to the commanding officer, the shipmaster and the captain of the aircraft, in as far as no investigating officer is present at the location.
3. Article 529 applies likewise with regard to the surrender of the seized object.

Article 537
The public prosecutor may provide for the return of a seized object before it is placed under the protection of the custodian. The order to return the object will be addressed to the person holding the object. The latter is obliged to comply with the order without delay.

Article 538
1. At all times, the investigating officers may claim access to the documents that, in their reasonable view, is necessary for the performance of their duties.
2. Persons who have a confidentiality obligation by virtue of their status, profession or office may refuse access to documents or parts thereof to which their confidentiality obligation extends.

Article 539
1. The investigating officers have access at all times to all locations that, in their reasonable view, is necessary for the performance of their duties. The commanding officer and the shipmaster may, for the purpose of detaining the suspect or seizing objects, enter all locations, the entry of which, in their reasonable view, is necessary for that purpose.
2. Articles 155 to 160 do not apply. Articles 162 and 163 apply likewise with regard to the commanding officer and the shipmaster.

Article 540
The captain of an aircraft may, on the basis of Article 9(1) of the Convention on Offences and Certain Other Acts Committed on Board Aircraft (Book of Treaties 1964, 115 and 164) transfer to the competent authorities of a foreign state every passenger of the aircraft that they reasonably suspect of committing an offence on board for which the statutory description imposes a prison sentence of four years or more.

Section 3
Obligations of the shipmaster

Article 541
1. The shipmaster shall notify the public prosecutor without delay and in the fastest possible manner of every offence committed on board that places the safety of the vessel or the passengers at risk or has caused death or serious physical injury to a person.
2. For the purposes of the application of paragraph 1, references to 'vessel' include installations at sea and references to 'offences' committed on board include offences committed on such an installation.
3. Article 522(3) applies likewise.

Article 542

1. The shipmaster ensures that a register of criminal offences is present on board, numbered page by page and certified by an officer in whose presence the sampling takes place. No costs will be charged for the certification.
2. He shall ensure, without delay, that the following is reported in the register:
   a. every criminal offence of which he becomes aware, as referred to in Article 541;
   b. every criminal offence regarding which he has made use of authorisation as referred to in Article 522(1);
   c. every criminal offence committed on board his vessel or by a passenger for which a passenger requires recording in the register or for which he himself regards reporting as desirable.
3. With the application of paragraph 2, the location and time at which the offence is committed, the personal details and nationality of the suspect and of the witnesses, as well as the measures taken pursuant to the provisions of this Title by the shipmaster, or by the ship's officer on his instructions, shall be reported.
4. The reports will be dated and signed by the shipmaster.
5. The shipmaster will grant access to the register to an investigating officer at his earliest request.

Article 543

1. The shipmaster will grant an officer who has access to his vessel pursuant to any statutory provision an opportunity to board the vessel at his earliest request.
2. In the lawful provision of his services, the officer is not subject to the authority of the shipmaster over the passengers.

Section 4
Establishment of guilt

Article 544

The provisions of Book 3 apply to this Title, unless and in as far as explicitly provided otherwise.

TITLE VII
Court orders on enforcement of public order

Article 545

In the event that perpetrators of any criminal offence that seriously harms public order and concerning which pre-trial detention is not permitted are caught in the act, the measures described in the following provisions may be applied if serious objections against the defendant exist and there is a high risk of repetition or continuation of that offence.

Article 546

1. The public prosecutor is authorised to provide for the defendant to be detained and to have him brought before the examining judge without delay.

2. The public prosecutor is also authorised to provide for witnesses, experts and interpreters to be summonsed to appear before the examining judge. The summons may be issued orally by a bailiff or in writing by a police officer; the public prosecutor himself may also issue the summons orally.
3. With a view to the investigation, the defendant will be detained on the orders of the public prosecutor, at a location to be designated by the public prosecutor, for a maximum of eight days.

Article 547

1. The public prosecutor attends the investigation by the examining judge and, after having presented the case, submits the claims that he considers necessary in connection with the provisions of this Title.
2. The examining judge will immediately investigate the case. The investigation will be conducted in accordance with the provisions of Sections 2 to 5 of Title III of Book 4.
3. The examining judge is authorised to order the witnesses, experts and interpreters designated by the public prosecutor or the defendant to appear before the court, if necessary with the addition of an order that they be brought forward. In that case, the examining judge may suspend the investigation for a maximum of 24 hours. The summons will be issued in accordance with Article 546(2).

Article 548

1. If the examining judge does not find any terms present for the application of any measure pursuant to Article 545, he will order the immediate release of the defendant.
2. In the other case, the examining judge, in response to the claim of the public prosecutor, will issue the necessary orders to the defendant for a fixed term to prevent any repetition or continuation of the offence and will require of him a written statement of willingness to comply with those orders. The term will end by law on the times at which the judgment handed down in relation to the criminal offence becomes final or, if a punishment or measure has been imposed in that judgment, as soon as the sentence can be enforced.
3. The orders may not restrict the freedom of religion or political conviction.

Article 549

If the written agreement is submitted, the examining judge will order the immediate release of the defendant.

Article 550

1. If the written agreement is not submitted, the examining judge will order that the defendant’s detention be continued.
2. The detention is in force for a term to be fixed in the order, of no more than five days, commencing on the date of the enforcement. Article 102(1) applies likewise. The detention order must be enforceable in practice.
3. In response to the claim of the public prosecutor, the examining judge may renew the detention order on one occasion by a maximum of five days. The defendant will be given an opportunity to be heard in relation to the claim.
4. The examining judge takes a decision in observance of paragraph 1 and of Articles 548 and 549.

5. The defendant may appeal against the detention within three days of the enforcement of the detention order to the Court of Justice, which will take a decision after hearing the defendant.

Article 551

1. As soon as the major risk of repetition or continuation no longer exists, the public prosecutor will order the immediate release of the defendant.
2. Officially or on the claim of the public prosecutor or at the request of the defendant or his counsel, the examining judge may order the release of the defendant. Article 549 applies.
3. The Court of Justice may withdraw the detention order, officially or at the request of the defendant. Article 103(2) applies.
4. The order may also be withdrawn when the judgment is handed down in the case referred to in Article 545. The withdrawal will always be ordered here if no punishment or measure is imposed in relation to the offence.

Article 552

1. If the defendant fails to comply with the orders issued to him, every investigating officer is authorised to arrest him and to bring him before the public prosecutor again, without delay. The investigating officer may enter every location for the purpose of arresting the suspect. Articles 155 to 164 apply.
2. In this case, or if the defendant could not be detained, the public prosecutor will claim that the examining judge institute an investigation without delay. The examining judge will grant this claim at the earliest opportunity.
3. The above provisions of this Title apply with regard to the investigation and the subpoena of witnesses.

Article 553

1. If the examining judge considers, on the grounds of the investigation referred to in Article 552, that there are terms for this, he shall order the immediate release of the defendant.
2. In other cases, the examining judge, if the defendant has violated the orders given to him, will order that the defendant be detained at a location that he designates. Articles 550(2), 550(3), 550(5) and 551 apply, with the exception of the second sentence of paragraph 2.

Article 554

No appeal can be filed against the decision to reject a claim of the public prosecutor pursuant to the provisions of this Title.

TITLE VIIa
Separate claim for withdrawal from circulation

Article 554a

1. The Court of First Instance will hand down the decision referred to in Article 1:74(1)(d) of the Criminal Code in response to a claim of the public prosecutor, stating the reasons.
2. Article 152 applies.
3. The handling of the claim by the Council Chamber will take place in open court.

4. The decision will be served upon the interested parties, if known, without delay.
5. The Public Prosecutors Office may file an appeal against the decision within 14 days of it being handed down and the injured party may do so within 14 days of the decision being served.

TITLE VIII
International legal assistance in criminal proceedings

Section 1
Requests for international legal assistance in criminal proceedings

Article 555

1. The provisions of this Title apply to requests for legal assistance in relation to the detection, prosecution, adjudication of criminal offences or the enforcement of sentences to the authorities of a foreign state and to requests by the authorities of a foreign state to the Country in that regard, in as far as the settlement is not provided for in the provisions of and pursuant to other national ordinances.
2. Requests from authorities of a foreign state authorised for that purpose to perform investigative actions, jointly or otherwise, or to provide assistance for this, requests to determine the presence of unlawfully acquired benefits, to send documents, files or other documents, to provide intelligence or to issue documents or to issue notices or information to third parties qualify as requests for legal assistance.
3. A request for legal assistance may also be addressed to an international court. A request for legal assistance from an international court may be executed if this arises from a convention or other instrument of international law and no special statutory regulation has been enacted for that purpose. The provisions of this Title apply likewise.
4. Further rules may be imposed concerning the granting and execution of requests for legal assistance by or pursuant to a national decree containing general measures.

Section 2
Requests for legal help addressed to foreign countries

Article 556

1. The public prosecutor, the examining judge and the Court of First Instance or the court that handles criminal proceedings are authorised to direct a request for legal assistance to the authorities of a foreign state.
2. If the request is aimed solely at obtaining intelligence from foreign investigating officers, the request may be made by an investigating officer under the authority of the public prosecutor. General and special instructions issued by the public prosecutor shall be observed.
3. Unless provided otherwise by an applicable treaty, the request for legal assistance is sent by the Attorney-General. An investigating officer may also sent requests as referred to in paragraph 2.

Article 557

A request for legal assistance may only be sent to the authorities of a foreign state in the event of compliance with the requirements that apply pursuant to the Code for the application of the powers requested in the request for legal assistance in a national investigation into these criminal offences, as well as what applies under or pursuant to the existing legislation concerning police data.

Section 3
Requests for legal assistance addressed to the Country

Article 558

1. If the request is not addressed to the Attorney-General, the addressee will send it on to the Attorney-General without delay.
2. The Attorney-General who receives the request will make a decision on the response to this without delay.
3. In as far as the request for legal assistance from a foreign state is based on a treaty, it shall be granted as required in as far as possible.
4. Where the request is not based on any convention or treaty, as well as in cases where the applicable convention or treaty does not require that the request be complied with, a request for legal assistance from a competent authority of a foreign State can be granted if that grant is not contrary to a legal provision or an instruction by the Minister.
5. If the request cannot be granted, the authorities of the requesting state will be notified of this at the earliest opportunity. If the request cannot be granted because it is incomplete, the authorities of the requesting state will first be given an opportunity to supplement the request.
6. The Attorney-General shall keep records of every request for legal assistance in a register intended for that purpose. The records will in any event state the nature of the request, the capacity of the applicant and the response given to the request.

Article 559

1. The request will not be granted in cases in which, following consultation of the authority making the request, it must be determined that granting the request would serve to grant assistance to a prosecution or adjudication that is inconsistent with the *ne bis in idem* principle underlying Article 1:143 of the Criminal Code and Article 282(1) of this Code.
2. The request cannot be granted if it is made for the purpose of an investigation of offences concerning which the defendant is being prosecuted in the Kingdom and consultation of the requesting authority has shown that granting the request would not be consistent with the interests of the Kingdom in the prosecution or could lead to violation of the *ne bis in idem* principle.
3. The request will not be granted if there are well-founded suspicions, based on facts and circumstances, that granting the request would lead to flagrant violation of the fundamental rights of the person concerned, as protected by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed on 4 November 1950 in Rome.
4. The request will not be granted in cases in which there are grounds to suspect that it was made for the purpose of an investigation opened with a view to the prosecution or punishment of the defendant or to affect him in other ways in connection with his religious, ideological or

political convictions, his nationality, his race or the population group to which he belongs.

5. Requests for an investigation of criminal offences of a political nature or related offences will be granted only pursuant to the authorisation of the Minister. The authorisation can only be issued for requests based on a treaty and only following consultation of the Minister of Foreign Affairs of the Kingdom. The decision on the request will be notified to the authorities of the state making the request by means of diplomatic channels.
6. Paragraph 5 does not apply if the request is based on a treaty which provides with regard to certain criminal offences that these will not qualify as criminal offences of a political nature or as related offences in the criminal law collaboration.
7. Unless provided otherwise in an applicable treaty, requests made for an investigation of criminal offences concerning charges, taxes, customs, foreign currency or related offences, the granting of which could be of importance for the Country's tax and customs administration, or requests concerning data kept by the Country's tax and customs administration or data that have become known to officers in the provision of their services will be granted only pursuant to the authorisation of the Minister. The authorisation can only be issued following consultation of the Minister of Finance.

Article 560

1. The Attorney-General will send a request that qualifies for acceptance to the public prosecutor.
2. The public prosecutor will provide for the necessary swift execution of a request for legal assistance that qualifies for acceptance.
3. The Attorney-General or the public prosecutor will notify the authorities of the state making the request of the handling of the request without delay and if necessary, will open talks on the way in which the request should be executed.
4. Within the possibilities afforded by the applicable treaty and the legislation, the formalities and procedures notified by the state making the request will be observed as far as possible in the execution of the request.

Article 561

1. If the request for legal assistance only concerns intelligence and no investigative resources are necessary in order to obtain this, the granting and execution of the request may be performed by an investigating officer.
2. Execution of requests for legal assistance pursuant to paragraph 1 shall take place under the authority of the public prosecutor. In the settlement of the request, the general and specific instructions issued by the public prosecutor will be observed.

Article 562

1. For the execution of a request for legal assistance from a foreign state, investigative powers may be applied, in as far as these could also be applied in an investigation in the Country into the same offences, pursuant to this Code. The requirements set in connection with proportionality, as well as an assessment of the interests of the investigation, will be disregarded here.

2. If several investigative powers lend themselves for execution of the request for legal assistance, application of the least invasive means for those concerned will be chosen unless the request for legal assistance or the talks with the authorities of the state making the request show that application of a different power is called for.
3. Powers that, pursuant to this Code, can be exercised only by or with the authorisation of the examining judge may only be used for the execution of a request originating from the judicial authorities of a foreign state.
4. If this is necessary or desirable for the execution of the request, the public prosecutor will hand the request to the examining judge. In the claim, the public prosecutor describes the actions of the examining judge that are required. The claim may be withdrawn at any time.
5. The examining judge will place the objects, documents and data that he has gathered for the execution of the request for legal assistance at the disposal of the public prosecutor without delay.
6. Articles 177k(2) and 177ka to 177kc apply likewise. Article 177kb applies only in as far as the relevant records and other objects have not been issued to the foreign authorities. The public prosecutor will ensure that an interested party is able to view the statement and other objects relating to him at any time.

Article 563

1. In response to a claim of the public prosecutor, the examining judge may execute a request for examination of a witness or expert by video conferencing, conducted by authorised foreign authorities, under his management. If an applicable treaty provides for this, a request to interrogate a suspect by means of video conferencing as part of the investigation and prosecution of criminal offences may also be implemented.
2. Unless an applicable treaty provides otherwise, the provisions of this Code concerning a request for examination of a defendant, witness or expert by the examining judge apply likewise to the execution of the request for examination by video conferencing.

Article 564

1. The Attorney-General is authorised, through the intermediary of the Minister if necessary, to make the results of the implementation of the request for legal aid available to the authorities of the requesting state. If a complaint is filed or may still be filed pursuant to Article 564a or the leave of the court is required pursuant to paragraph 3, the transfer of the results will not take place until a final decision has been handed down on the complaint or the leave.
2. Unless it is plausible that the right-holder of the seized objects does not reside in the Country, the public prosecutor will require, in the handover to the authorities of the foreign state, that the objects be returned as soon as the necessary use has been made of them for the criminal proceedings.
3. If the notification of Article 564a(1) has not taken place, in the interests of the confidentiality of the request for legal assistance, seized objects or documents or data gathered with the application of the powers described in Articles 177q, 177r, 177s(7), 177t or 177ta may only be handed over with the leave of the Court of First Instance for that purpose.

4. The provisions of and pursuant to Articles 141 to 145a and 152a apply likewise. Article 40(5) applies likewise, with the proviso that if confidentiality is requested by the authorities of the requesting state, or if the nature of the request shows that the confidentiality of the request for legal assistance is called for, it is assumed that the interests of the investigation would be seriously harmed by the application of Article 40(2) to 40(4).

Article 564a

1. The interested party from whom objects have been seized as part of the execution of a request for legal assistance, or from whom data have been claimed or who has undergone a search for recording of data will be notified of his right to file a complaint with the Court of First Instance within 14 days of the notification, pursuant to Article 150. The notification will not be issued if confidentiality is requested by the authorities of the requesting state, or if the nature of the request shows that the confidentiality of the request for legal assistance is called for.
2. If the public prosecutor has reason to assume that a seized object does not belong solely to the person from whom they were seized or if data claimed relate predominantly to persons other than those from whom they were claimed, he shall conduct the necessary investigations into these direct stakeholders in the Country in order to provide them with the notification referred to in paragraph 1.
3. Articles 150, 152a and 153(1) apply likewise, with the proviso that the court will not conduct any investigations into the grounds for the execution of the request for legal assistance, the execution of which led to the submission of the complaint.
4. If a complaint has been submitted, the Attorney-General will notify the authorities of the state making the request of this. The authorities of the state making the request will be notified in the same manner of the decision on the complaint.

Article 564b

1. In as far as a treaty provides for this, telecommunications may be tapped at the request of a foreign authority with a view to direct connection to the foreign country. Article 177r(1) applies likewise.
2. If the tapped and directly connected telecommunications relate to a telecommunications user located in the territory of the Country, the condition will be attached to the through connection that the data obtained by tapping of the telecommunications:
   a. in as far as these contain notices made by or to a person who could invoke rights of privilege pursuant to Article 252 if he were asked about the content of those notifications as a witness, may not be used and should be destroyed;
   b. may be used only for the criminal investigation in relation to which the legal assistance request was made and that prior consent must be requested and obtained for their use for any other purpose.
3. Article 177ka applies likewise.

Article 564c

1. Notification, on the basis of a treaty, of the competent authorities of another state concerning the intention to tap the telecommunications of a user located in the territory of the Country will be passed on to the public prosecutor without delay, via the Attorney-General.

2. The public prosecutor will hand the notification to the examining judge without delay, with a written claim in which, within the term set in the applicable treaty, authorisation to grant consent to the proposal to tap or the tapping by the competent foreign authorities is claimed.
3. The examining judge will take a decision on the claim in observance of the provisions of the applicable treaty and the provisions of or pursuant to Article 177r.
4. If the authorisation is granted, the public prosecutor will notify the authorities from which the notice originates, within the term set in the applicable treaty, that consent has been granted for the intention to tap or the tapping of telecommunications of the user located in the Country. He will attach the condition set by the examining judge to this, as well as the conditions that the data obtained by tapping of the telecommunications of the user, during his stay in the Country:
   a. in as far as these contain notices made by or to a person who could invoke rights of privilege pursuant to Article 252 if he were asked about the content of those notifications as a witness, may not be used and should be destroyed;
   b. may be used only for the criminal investigation in relation to which the notification was issued and that prior consent must be requested and obtained for their use for any other purpose.
5. If the authorisation is granted, Article 177ka applies likewise.
6. If the authorisation is not granted, the public prosecutor will notify the authorities from which the notice originates, within the term set in the applicable treaty, that consent has not been granted for the intention to tap or the tapping of telecommunications and, in as far as necessary, will require that the tapping is halted without delay.
7. A notice as referred to in paragraph 6, concerning tapping that has already commenced, will also state that the data obtained by tapping of the telecommunications of the user during his stay in the Country may not be used and must be destroyed, unless, in observance of the applicable treaty, any use is permitted by the Minister in response to a new request to that effect in exceptional circumstances and subject to further conditions.

Article 565

1. The service and delivery of documents to third parties in order to comply with a request for legal assistance will take place in a manner analogous to the application of the statutory regulations concerning the service and delivery of documents of a similar purport in the Country.
2. If an explicit preference is expressed in a request that qualifies for acceptance for service or delivery to the addressee in person, action will be taken accordingly as far as possible.

Section 4
International joint investigation teams

Article 565a

1. In as far as a treaty provides for this, the Attorney-General may provide for the public prosecutor to form a common investigative team with the competent authorities of foreign states for a limited period, for the joint conduct of criminal investigations.
2. The formation of a joint investigative team will be agreed in writing by the public prosecutor and the competent authorities of the foreign states.

3. The agreement referred to in paragraph 2 will in any event record the object, the term, the establishment location and the membership of the joint investigative team, the investigative powers to be exercised by the officers of the Country in foreign territory and the investigative powers to be exercise by foreign investigating officers in the territory of the Country, as well as the obligation of foreign investigating officers to comply with a summon as referred to in Article 244 or a subpoena as referred to in Article 287.

Article 565b

The exercise of investigative powers in the territory of the Country for the investigations of the joint investigative team will take place in observance of the provisions of and pursuant to this Code and the treaties applying between the states involved in the joint investigative team.

Article 565c

In the Country, documents that foreign members of the joint investigative team have drawn up with regard to the official actions relating to investigation and prosecution that they have performed as part of the investigations by the investigation team in foreign countries have the evidential value assigned to documents concerning equivalent actions performed by officers of the Country in the Country, with the proviso that their evidential value does not exceed that which it has according to the law of the country from which the foreign members originate.

Article 565d

1. Documents, objects and data that are gathered in the Country with the use of any criminal procedural powers for the investigations of a joint investigative team established in a foreign country may be made provisionally available to the investigative team without delay.
2. The public prosecutor involved with the joint investigative team attaches the conditions to the provisional provision referred to in paragraph 1 that the law of the Country remains applicable to those documents, object and data in full and that the use of these in evidence is possible only after their provision has been finalised.
3. The public prosecutor may make the documents, objects and data referred to in paragraph 1 finally available to the joint investigative team established in a foreign country if and in as far as the Court of First Instance has granted leave for this.

Article 565e

1. A public prosecutor involved in a municipal investigative team established outside the Country may also issue an order as referred to in Article 177r(1) with a view to the direct connection to and recording of telecommunications with a technical device by the joint investigative team.
2. If the telecommunications relate to a telecommunications user located in the territory of the Country, the condition will be attached to the order referred to in paragraph 1 that the data obtained by tapping of the telecommunications:

a. may not be used and must be destroyed in as far as these contain notices by or of a person who could invoke rights of privilege pursuant to Article 252 if he were asked about the content of the notices as a witness, and

b. may be used only for the investigations of the investigative team and that prior consent must be requested and obtained for their use for any other purpose.
3. Article 177ka applies likewise.

Section 5
Offences committed on board aircraft

Article 566
1. If the investigation that must be instituted on the basis of Article 13(4) of the Convention on Offences and Certain Other Acts Committed on Board Aircraft (Book of Treaties 1964, 115 and 164) into what happened on board the aircraft relates to an offence regarding which the criminal law of the Country does not apply, it will be instituted in accordance with the provisions applying for a criminal investigation relating to a criminal offence for which pre-trial detention is not permitted. The offence is deemed to have been committed at the location where the aircraft landed.
2. Apart from the objects referred to in Article 119, the investigating officers who conduct the investigation may seize the objects that the captain of the foreign aircraft hands over after the landing pursuant to Article 9(3) of the Convention.
3. The provisions of and pursuant to Articles 141 to 145, 150 and 152 to 154 apply likewise. The court of first instance for the judicial district in which the aircraft landed will act in the place of the Court of First Instance authorised according to Article 142(3).

Article 567
1. In cases in which grounds exist to suspect that the actions of a passenger of an aircraft, as a result of which that passenger was handed over pursuant to Article 9(1) of the Convention after the aircraft landed in the Country, constituted a violation of a sentence in connection with his religion, ideology or political convictions, his nationality, his race or the population group to which he belongs, no investigation will be instituted.
2. In cases in which there are grounds to suspect that the actions referred to in the preceding paragraph constitute a violation of a sentence of a political nature, no investigation will be instituted other than pursuant to an authorisation of the Minister following consultation with the Minister of Foreign Affairs of the Kingdom.

TITLE IX
Transfer of enforcement of penal sentences

Section 1
General provisions

Article 568
For the purposes of this Title, the terms below are defined as follows:
court decision: a court decision handed down in relation to a criminal offence;
sanction: a punishment imposed by a court decision, including a measure imposed in addition to or instead of a punishment;
convict: the person on whom a sanction is imposed.

Article 569
Enforcement in the Country of court decisions originating from states outside the Kingdom will take place only pursuant to a treaty. The convict may be charged costs for his transfer, preferably in accordance with a national decree containing general measures serving for that purpose.

Article 570
1. A sanction imposed in a foreign country may be enforced in the Country only in as far as:
   a. the court decision in that country qualifies for enforcement;
   b. the sanction does not consist of payment of legal costs or a sentence to pay an injured party compensation for damage;
   c. de court decision was handed down in relation to an offence that is also punishable according to the law of the Country;
   d. in the event of a conviction, the perpetrator would have also been punishable according to the law of the Country.
2. For the application of paragraph 1, there must also be an offence that is punishable according to the law of the Country if, pursuant to legal regulations of the Country, the same violation of the legal order in the Country as that perpetrated on the legal order of the foreign country, as shown by the court decision handed down in that country, is a criminal offence.

Article 571
A sanction imposed in a foreign country may not be enforced in the Country if this relates to a foreigner with no fixed abode in the Country, or to a legal entity, the management of which maintains no seat or office in the Country, or the CEO of which has no fixed abode in the Country. This condition does not apply in as far as the sanction imposed in the foreign country serves for the payment of a financial penalty or for forfeiture or asset recovery of a comparable purport.

Article 572
A sanction imposed in a foreign country may not be enforced in the Country if, in the view of the Minister, there are well-founded suspicions that the decision to prosecute or the imposition of the sanction was related to the religious, ideological or political convictions, or the nationality, race or population group to which the convict belongs or was negatively influenced as a result.

Article 573
1. A sanction imposed in a foreign country cannot be enforced in the Country if the right to enforcement of the sanction would have become prescribed under the law of the Country.
2. A sanction imposed in a foreign country cannot be enforced in the Country if the convict had not yet reached the age of 12 at the time of the offence for which the sanction was imposed.

Article 574
1. A sanction imposed in a foreign country cannot be enforced in the Country in as far as the convict is being prosecuted for the same offence in the Country or, in as far as known, in one of the countries of the Kingdom.

2. Likewise, a sanction imposed in a foreign country cannot be enforced in the Country in as far as prosecution in the Country would have been inconsistent with the principle underlying Article 1:143 of the Criminal Code and Article 282(1) of this Code.

Section 2A
Provisional custodial measures

Article 575
In as far as a treaty provides for this, a convict who is located in the Country and on whom a custodial sanction has been imposed, at least three months of which must still be served, as shown by the court decision handed down in the foreign country, will be provisionally arrested if there are well-founded reasons to expect that this sanction will be enforced in the Country in the near future.

Article 576
1. The Attorney-General is authorised to order the provisional detention in accordance with Article 575.
2. The convict will be brought before the Attorney-General within 24 hours of his provisional arrest.
3. After having heard the convict, the Attorney-General may order that he be further deprived of liberty for 48 hours from the time of the provisional arrest.
4. The Attorney-General may renew this term on one occasion only by 48 hours.
5. The convict may be released by the Attorney-General at any time.

Article 577
1. The examining judge, on the claim of the Attorney-General, may order that the convict's provisional deprivation of liberty be extended.
2. Before issuing an order pursuant to the preceding paragraph, the examining judge will hear the convict if possible.

Article 578
1. The extension may be ordered for a maximum term of 14 days. The provisional deprivation of liberty may be further extended on the claim of the Attorney-General, by a term of no more than 30 days on each occasion, until the Court takes a decision on the detention pursuant to Article 589(2).
2. Subject to the possibility of deprivation of liberty on other grounds, a convict whose provisional detention was ordered will be released:
   a. as soon as this is ordered by the Court, the examining judge or the Attorney-General, officially or at the request of the convict or his lawyer;
   b. as soon as the provisional detention has lasted for 14 days and the Attorney-General has not received the documents referred to in Articles 581 or 582;
   c. if the term of the provisional deprivation of liberty would exceed that of the part of the sanction imposed in the foreign country that qualifies for enforcement.
3. The term referred to in paragraph 2b does not run during the time in which the convict has evaded further enforcement of the deprivation of liberty ordered.

Article 579
The Minister of Justice will be notified without delay, through the intermediary of the Attorney-General, of every decision taken in response to a request from an authority of a foreign country pursuant to one of the Articles 575 to 578.

Section B2
Seizure

Article 579a
1. In response to a request from a foreign state based on a treaty, a criminal financial investigation may be instituted in the Country, in compliance with the provisions of Title XVI of Book 3, aimed at determining the presence of unlawfully acquired benefits in this Country or of the unlawful acquisition of benefits in this Country by a person who is subject to a criminal investigation in the country making the request.
2. The criminal financial investigation may only be instituted if this would also have been possible if the offence or offences of which the person is suspected in the country making the request were committed in the Country.
3. During the criminal financial investigation, seizure of objects pursuant to Article 119(2) and Article 119a(2) may take place only if there are well-founded reasons to expect that the foreign country making the request will request enforcement of a sanction serving for forfeiture of the objects or recovery of unlawfully acquired benefits.
4. The public prosecutor will send a copy of his decision to close a criminal financial investigation to the Minister, through the intermediary of the Attorney-General, without delay, accompanied by a report of all relevent information to the foreign country making the request.

Article 579b
1. In as far as a treaty provides for this, objects may be seized at the request of a foreign country:
   a. concerning which a sanction serving for forfeiture may be imposed in accordance with the law of the foreign country;
   b. in order to protect the right of recovery for an obligation to pay a sum of money that can be imposed according to the law of the foreign country, serving for recovery of unlawfully acquired benefits; or
   c. which can serve as evidence of unlawfully acquired benefits.
2. Seizure, as referred to in paragraph 1a and 1b may take place only if, according to the intelligence provided by the foreign country with its request, the competent authorities of that country have issued an order for seizure or would have done so if the relevant objects had been located within the territory of that country and seizure is permitted according to the law of the Country.
3. For the purpose of the application of paragraph 2, seizure is permitted according to the law of the Country if this would also have been possible if the offence or offences for which the seizure is requested by the foreign state had been committed in the Country.
4. Seizure of objects as referred to in paragraph 1a and 1b may take place only if there are well-founded reasons to expect that with regard to those objects, the country making the request will make a request for

enforcement of a forfeiture or of a sanction serving for recovery of unlawfully acquired benefits in relation to those objects.

Article 579c

1. In as far as a treaty provides for this, objects concerning which a court in a foreign country has issued an order of a purport similar to forfeiture or recovery of unlawfully acquired benefits will be seized at the request of that foreign country.
2. Seizure in accordance with paragraph 1 may take place only in cases in which there are well-founded reasons to expect that the order referred to in that paragraph will be enforced in the Country in the near future.

Article 579ca

1. The provisions of Article 579a(3) and Article 579b(4) do not prevent the surrender, on request, of seized objects to the foreign country making the request with a view to the imposition and enforcement of a forfeiture or a sanction serving for recovery of unlawfully acquired benefits. To that end, seized objects will be placed at the disposal of the public prosecutor, in observance of the applicable treaty.
2. On the surrender to the foreign authority, it will be required that the objects will be returned, including when these have been declare forfeit or as recovered unlawfully acquired benefits, in which case they will be transferred to the Country in ownership, or that the country making the request transfers to the Country a sum of money to be determined by the Minister, consistent with the full or partial value of the objects. The Minister may decide to waive the claim for transfer of the sum of money claimed if the country making the request shows that the objects surrendered were transferred to third party right-holders.

Article 579d

1. The examining judge and, in as far as that authorisation is not reserved for the examining judge, the Attorney-General is authorised to make seizures as referred to in Articles 579b and 579c.
2. With regard to paragraph 1, Articles 119b to 119d, 122, 125 to 145a, 150, 152, 153, 154a and 608 apply likewise.

Article 579e

1. On the analogous application of Articles 150 or 154a, the court will not institute a new investigation into the rights of interested parties if the foreign court has handed down a judgment in that regard. However, the court may order a new investigation of that kind if:
   a. that judgment relates to the rights concerning real estate located in the Country or property registered in the Country;
   b. that judgment concerns the validity, nullity or dissolution of legal entities registered in the Country or of the decisions of their bodies;
   c. that judgment was handed down without the interested parties against whom a default judgment was handed down being officially notified of the proceedings in as timely manner in advance as was reasonably necessary with a view to their defence;
   d. that judgment is inconsistent with a court decision handed down earlier in that regard in the Country;
   e. recognition of that judgment would be inconsistent with the interests of public order in the Country.

2. If and for as long as proceedings regarding the rights of an interested party are pending before a court of the foreign country making the request, the complaint or claim of the interested party is inadmissible.

Article 579f

1. The Attorney-General is authorised to handle requests as referred to in this Section.
2. Requests, as referred to in paragraph 1, if they have not been addressed to the Attorney-General, will be forwarded to him by the addressee without delay.
3. Complaints, as referred to in Article 150, as well as legal proceedings as referred to in Article 154a, must be filed with the Court in the first and last instance.

Section 3
Procedure

Paragraph 1
Handling of foreign enforcement requests

Article 580

If, in the view of the Minister, the documents submitted by the foreign state are insufficient to take a decision on an enforcement request, he will offer the authorities of the country making the request an opportunity to provide additional documents or intelligence within a reasonable term to be fixed by the Minister.

Article 581

1. Unless the Minister is already of the opinion that the request for enforcement should be rejected, he will place it in the hands of the Attorney-General, together with the accompanying documents.
2. If the Attorney-General takes the view that the request does not qualify for granting or that there are reasons to make use of one of the grounds for refusal of enforcement described in the treaty concerned, he shall notify the Minister of this view without delay, accompanied by his advice, on which the Minister will take a decision. The Attorney-General will notify a convict who has been provisionally deprived of his liberty pursuant to this Title of the date on which the Attorney-General presented his advice to the Minister without delay.

Paragraph 2
Handling of requests of the Country to enforce sanctions imposed in a foreign state in the Country

Article 582

If a foreign state has granted a request for enforcement of a sanction imposed by that state in the Country, the Minister will place the documents submitted by the authorities of that state in the hands of the Attorney-General.

Paragraph 3
Court proceedings

Article 583

1. Within two weeks of the date on which he received the documents referred to in Article 581 or 582, the Attorney-General will claim in writing that the Court grant leave for enforcement. Together with his claim, the Attorney-General submits the documents to the Court. A copy of the claim will be served on the convict. Together with his claim, the Attorney-General will also submit a list of objects or claims that have been seized pursuant to Articles 579a to 579e.
2. The term set in paragraph 1 will be suspended from the date on which the Attorney-General advises the Minister in accordance with Article 581(2) to the date on which the Attorney-General receives notice from the Minister that the enforcement should be claimed.
3. If the convict has been provisionally deprived of his liberty pursuant to this Title, the suspension will in any event end after 14 days.
4. The provisions of paragraphs 1 to 3 do not apply if the sanction to be enforced consists solely of a financial penalty.
5. Articles 197 and 486 apply likewise.

Article 584

1. As soon as possible after receipt of the claim referred to in Article 583, the head of the bench of the Court will decide the date on which the Court will commence the handling of the claim. A term of at least ten days must have passed between the date on which the summons to appear at the hearing was served and that of the hearing.
2. With the consent of the convict, this term may be reduced, provided that such consent is shown by a written declaration.

Article 585

The Registrar of the Court will notify the Attorney-General and the convict without delay of the date set for the handling of the claim. A convict who proves to have no lawyer will be referred to his right to select one or more lawyers and the possibilities for the assignment of a lawyer, as well as his right to view the case documents.

Article 586

1. The Attorney-General and the convict are authorised to summon witnesses and experts for the investigation that the Court must conduct pursuant to this Title and the decisions that it must take.
2. With a decision, stating his reasons, the Attorney-General may refuse to summon witnesses or experts if it must reasonably be assumed that they have been listed by the convict in order to make statements at the hearing to contest facts as referred to in Article 588(3). The convict will be notified of the decision in writing without delay. He will also be referred to the provisions of Article 588(6).

Article 587

1. The handling of the claim will take place in the presence of the Attorney-General. The convict will be given an opportunity to attend and may enlist the support of his lawyer.
2. The claim will be handled in open court, unless the Court, at the request of the convict or for serious reasons to be reported in the record of the hearing, orders that the claim be heard in camera.

Article 588

1. The Court will investigate the identity of the convict, the admissibility of the Attorney-General's claim and the possibility of enforcement in the

Country of the court decision handed down in the foreign country, as well as the facts and circumstances relevant for its decision.
2. The Attorney-General, the convict and his lawyer will be given an opportunity to be heard at the hearing of the Court.
3. The Court is bound by the establishment of the facts on which the foreign court apparently based its decision. It will not open a new investigation into these facts.
4. The provisions of Section 2 of Title IV of Book 5 apply likewise to points that are not regulated in this Title, subject to the provisions concerning the examination of witnesses and the conduct of an inspection.
5. If witnesses are summoned in order to obtain information concerning the personality of the convict or if the Court considers it necessary to investigate facts in order to assess the existence of grounds that rule out the criminality of the offence according to the law of the Country, but not according to that of the foreign state, the provisions of Section 2 of Title IV of Book 5 concerning the examination of witnesses apply likewise.
6. If the Attorney-General has refused to subpoena a witness, in accordance with Article 586(2), the convict may request the Court to order the subpoena of the witness. The Court will do so if it takes the view that the Attorney-General could not reasonably have reached his decision.
7. The Attorney-General will submit a conclusion to the Court, after this is read out. If the conclusion serves to grant the enforcement, it will describe the penalty or measures that, in the view of the Attorney-General should be imposed in place of the foreign sanction. The Attorney-General also states which criminal offence, according to the law of the Country, corresponds in that case with the facts on the basis of which a foreign sanction was imposed on the convict.

Article 589

1. In response to the claim of the Attorney-General at the hearing, the Court may order the arrest of the convict on the grounds referred to in Article 575.
2. Before the investigation at the hearing is closed, the Court will decide officially on the detention of the convict who has been provisionally deprived of his liberty pursuant to this Title.
3. A deprivation of liberty ordered pursuant to paragraphs 1 or 2 remains in force until the judgment of the Court qualifies for enforcement.
4. Subject to the possibility of further deprivation of liberty on other grounds, it will be terminated:
    a. as soon as this is ordered by the Court or by the Attorney-General, officially or at the request of the convict or his counsel;
    b. if the duration of that deprivation of liberty has become equal to the duration of the punishment or measure imposed by the court of the Country.

Article 590

1. If the Court finds:
    a. that the documents submitted do not comply with the requirements set in the applicable treaty;
    b. that the convict could have successfully invoked grounds that according to the law of the Country, but not according to the law of the foreign state, rule out the criminality of the offence or the perpetrator and that he does not need mandatory psychiatric care;

c. that pursuant to the provisions of Article 569, 570, 571, 573 or 574, the enforcement cannot take place in the Country; or
d. that in consideration of all interests concerned, a decision to enforce the sanction in the Country cannot reasonably be taken;

it will declare the enforcement to be inadmissible.

2. As long as the investigation at the hearing has not been closed, the Attorney-General may withdraw his claim. He will notify the convict of the withdrawal of the claim without delay.
3. In cases other than those provided for in paragraphs 1 and 2, the Court will declare the enforcement to be admissible, citing the applicable statutory and treaty provisions.

Article 591

1. If the Court finds the enforcement to be admissible, it will grant the leave to enforce the decision of the foreign court and, in observance of the relevant provisions of the applicable treaty, will impose the punishment or measure set for the corresponding offence according to the law of the Country. The judgment of the Court will state the reasons. The judgment also states the special reasons on which the punishment was based or which led to the measure and as far as possible, the circumstances taken into consideration in the determination of the duration or level of the punishment. Articles 388, 390, 391, 400, 407(2) and 407(3) and 410 apply.
2. In imposing temporary imprisonment or pre-trial detention, the Court will order that the time for which the convict was deprived of his liberty in the foreign state for the enforcement of the sanction imposed on him there, with a view to his transfer to the Country and the time for which he was deprived of liberty on the grounds of this Title will be deducted in full from the duration of the sentence served. The Court may issue a corresponding order in the imposition of a financial penalty. If it imposes this order, it will specify in its judgment the standards by which the deduction will take place.
3. The Court will send the Minister a certified copy of its judgment without delay.

Article 591a

1. Leave to enforce a sanction imposed in a foreign state serving for recovery of unlawfully acquired benefits may be limited to the enforcement of the obligation to pay a sum of money to the Country, the scale of which represents only a part of those benefits.
2. If the sanction imposed in the foreign state serves for the recovery of unlawfully acquired benefits and if the foreign state has explicitly requested the enforcement of that sanction only for objects that represent those benefits, the Court will declare the forfeiture of these. In that case, the Court is not bound by restrictions pursuant to Article 1:68(1)(a) of the Criminal Code.
3. Articles 151, 153 and 154 apply likewise to judgments involving a declaration of forfeiture.
4. Article 634 applies likewise to judgments involving the imposition of an obligation to pay a sum of money to the Country for recovery of unlawfully acquired benefits.
5. Article 579e applies likewise.

Article 592

The enforcement of a punishment or measure imposed pursuant to Article 591 takes place in observance of the provisions of this Code, the Criminal Code or any special criminal law concerning the enforcement of court decisions.

Paragraph 4
Out-of-court procedures
Financial penalties

Article 592a

1. If the sanction imposed in the foreign state serves only for the payment of a financial penalty, possibly with the threat of a replacement sanction serving for deprivation of liberty, this will be enforced pursuant to a decision of the Attorney-General.
2. Before taking a decision pursuant to paragraph 1, the Attorney-General will give the convict an opportunity to be heard.
3. The Attorney-General expresses the amount of the financial penalty in the currency of the Country, in accordance with the provisions of the applicable treaty. If the treaty contains no provisions in that regard, the Attorney-General will determine the amount of the sum in accordance with the exchange rate applying at the time of the conviction in the foreign state. The mid-rate fixed daily and recorded by the Central Bank of the Country serves as the exchange rate.
4. For currencies for which the Central Bank of the Country does not fix and record the exchange rate daily, the exchange rate applies as obtained from the value in special drawing rights of the relevant currency on the last working day of the month in which the sanction to be enforced was imposed in the foreign state.

Article 592b

1. The Attorney-General will arrange for the convict to be notified of the decision taken pursuant to Article 592a and the date on which the amount fixed must be settled at the earliest opportunity.
2. The convict may file an appeal with the Court against the decision of the Attorney-General within 14 days of circumstances arising which show that he is aware of the decision, if the financial penalty imposed exceeds the maximum amount of the first category referred to in Article 1:54 of the Criminal Code.
3. Articles 445(3), 446 to 451 apply likewise with regard to the manner of submission and withdrawal of an appeal.
4. Articles 38 to 42 apply likewise to the handling of the appeal.
5. If the Court finds the objection to be well-founded, it will overturn the decision of the Attorney-General or supplement this in observance of the provisions of Article 1:58 of the Criminal Code. If it finds the enforcement to be admissible despite the overturning, the Court will do what the Attorney-General should have done. In all cases in which the Court declares the enforcement of a financial penalty to be admissible, it will also determine the duration of the pre-trial detention.
6. Articles 591(3) and 592 apply.

Article 592c

1. Decisions as referred to in Article 592a can be enforced as soon as they are taken, unless the applicable treaty provides otherwise. The enforcement is suspended by the submission of an appeal within the term set for this.

2. Decisions take pursuant to Article 592a are enforced in observance of the provision of or pursuant to this Code concerning the enforcement of financial penalties, with the exception of Article 630(3).

Article 592d
If enforcement of replacement detention is necessary, the Attorney-General files a claim with a view to this, in accordance with Article 583, unless the Court has already fixed the term of the replacement detention pursuant to Article 592b(5).

Paragraph 5
Immediate enforcement

Article 593
1. In as far as a treaty explicitly provides for this, on the instructions of the Minister of Justice, the enforcement or further enforcement of a sanction imposed in a foreign state, serving for deprivation of liberty, may take place in the Country, without the application of paragraph 3 of this Section.
2. The instructions referred to in paragraph 1 may only be issued if a declaration signed by the convict shows that he was transferred to the Country with his consent, with a view to the enforcement of the sanction imposed on him.
3. The instructions referred to in paragraph 1 may only be issued after the advice of the Court has been obtained.
4. Pending the decision to issue an instruction, the convict may be provisionally deprived of his liberty with the application of Articles 575 to 579.
5. If, on the advice of the Court, no instructions are issued, the members of the Court who advised on the matter shall not participate in the handling of the claim filed by the Attorney-General in accordance with Article 583.
6. The enforcement of the sanction referred to in paragraph 1 takes place on the orders of the Attorney-General.

Paragraph 6
Enforcement of default decisions

Article 593a
1. A request for enforcement of a default judgment handed down in the state making the request cannot be handled until this judgment has been served upon the convict in person via the Attorney-General who received the request. Service will not take place if the right to prosecution in relation to the offence for which the decision was handed down in accordance with the law of the Country would have become prescribed, with the proviso that proceedings in the state making the request which interrupt or suspend that prescription have the same force of law in the Country. The authorities of the state which made the request will be notified in writing of the service.
2. In as far as a treaty provides for this, the convict may file an application with the Court to set aside a default judgment as referred to in the preceding paragraph during a term after the service determined by the applicable treaty.
3. The application may be filed at the registry of the Court in accordance with Article 445, containing, on pain of inadmissibility, a statement of

the convict's place of residence or accommodation at which judicial documents can be delivered to him. The registrar immediately reports the receipt of the application to the Attorney-General.

Article 593b

1. If the convict has lawfully applied for the default judgment to be set aside in accordance with Article 593a, with a view to handling of this in the state making the request, the Clerk of the Court will immediately send the application to the Minister for passing on to the state that made the request.
2. If the convict has lawfully applied for the default judgment to be set aside in accordance with Article 593a, with a view to handling of this in the Country, the request for enforcement of the default judgment handed down in the state making the request will be regarded as a request for criminal prosecution granted by the Minister and request for criminal prosecution based on a treaty.

Article 593c

1. A convict who has lawfully applied for a default judgment to be set aside in accordance with Article 593a, with a view to handling of this application in the Country, a summons to appear at the hearing of the Court will be sent by registered mail or served in person at the earliest opportunity.
2. If the convict does not appear at the hearing, the application will be declared lapsed and the provisions of paragraphs 3 to 5 will apply unless the court, on the failure of the convict to appear, has ordered the suspension of the investigation in order to give the convict another opportunity to attend the investigation if he was unable to do so.
3. If the convict who has applied for a default judgment to be set aside appears at the hearing, for the purposes of the application of the law in the Country, the decision of the foreign court will be deemed to have lapsed and the case will be handled in accordance with the Code of Criminal Procedure.

Section 4
Transfer of the enforcement of court decisions of the Country

Paragraph 1
Outgoing requests of the Country

Article 594

If the Attorney-General considers it desirable in the interests of good administration of justice, that a foreign state enforces or further enforces a punishment or measure imposed by the courts of the Country, he shall provide the Minister with advice on the transfer of the enforcement to that state, stating the reasons and submitting the decision qualifying for enforcement and any other documents that are of importance with a view to the enforcement.

Article 595

1. Subject to the provisions of paragraph 2, the Minister will decide as soon as possible after the receipt of an advisory report, as referred to in Article 594, concerning the action to be taken on this. If the request for

enforcement can be deemed to be based on a treaty, he will observe the provisions of that treaty.

2. If the advice of the Attorney-General relates to a convict who is located in the Country, on whom a custodial sanction was imposed and who has not declared his consent to the transfer of the enforcement of that sanction, the Minister of Justice, if he intends to follow that advice, will notify the convict of the advice in writing before taking a decision. The convict will be notified here that he may submit an appeal to the Court against the proposals of the Minister of Justice within 14 days of receipt of the notice.
3. As soon as possible after the receipt of an application to set aside a default judgment that has been submitted in a timely manner, the Court will investigate whether the Minister, in considering the interests involved, can reasonably arrive at the intended decision. The convict will be heard at the investigation, or at least will be correctly summoned for that purpose. If the convict does not already have a lawyer, the head of the bench at the Court will officially assign a lawyer to him.
4. The Court will notify the Minister and the convict of its decision. If the Court finds the application to be well-founded, the Minister will not follow the advice of the Attorney-General to transfer the enforcement.

Article 596

1. The Minister shall notify the Attorney-General in writing of the decision he has taken on his advice and of the notices he has received concerning decisions of the authorities of the foreign state in response to the request for enforcement made on the advice of the Attorney-General.
2. A request for enforcement made to the authorities of a foreign state may be withdrawn no later than the receipt of a notice concerning the decision taken in that state in response to that request.

Article 596a

A person against whom a default judgment was handed down in the Country, involving the imposition of a punishment or measure may, if a request for enforcement or supplementation thereof is made to the authorities of a foreign state, even if the judgment has already become final, apply for that judgment to be set aside until the expiry of a fixed term set by the applicable treaty after being served the judgment by the authorities of that state in person. Such an application may only be made to the competent authorities of the state to which the request was made, in accordance with the manner prescribed in the legislation of that state.

Article 596b

1. As soon as the authorities of the state to which the request was made have received the deed showing a lawful application to set aside a judgment, a summons will be served upon the person who made that application to appear at the hearing of the Court in person. On pain of nullity, a term of at least 21 days, or as many less as the applicable treaty permits, between the date on which the summons is served and that of the hearing will be observed. With the consent of the person summoned, this term may be reduced, provided that such consent is shown by a written declaration. Voluntary appearance in response to a summons served in contravention of the provisions of this Article covers the nullity.

2. If the person summoned does not appear in court on the date for that purpose, the application will be declared lapsed unless the Court, on the failure of the person summoned to appear, has ordered the suspension of the investigation in order to give him another opportunity to attend the investigation if he was unable to do so. The Attorney-General will notify the authorities of the state to which the request was made and the Minister of an application to set aside a judgment that has been declared lapsed at the earliest opportunity, in writing.
3. If a person who has applied for a default judgment to be set aside appears at the hearing, the case will be handled in accordance with this Code, as if they were appeal proceedings. The Court will uphold the default judgment or will adjudicate the case again, with full or partial overturning of that judgment.

Paragraph 2
Incoming requests to the Country

Article 597
Unless the Minister takes the view immediately that the request of a foreign authority to transfer the enforcement of a sanction imposed in the Country must be rejected, he will obtain the advice of the court in the highest instance that imposed the sanction, and of the Attorney-General, with regard to the question of whether granting the application is counter to interests of good administration of justice.

Article 598
1. As soon as possible after the receipt of the advice referred to in Article 597, the Minister will decide on the response to be given to the application referred to in that Article. Article 595 applies likewise.
2. The Minister shall notify the court referred to in Article 597 and the Attorney-General of his decision without delay.

Paragraph 3
Transfer

Article 599
Rules may be imposed by national decree containing general measures concerning the procedure according to which a declaration by or on behalf of a convict located in the Country, consenting to the transfer of the enforcement of a sanction imposed on him which serves for the deprivation of his liberty, should be followed.

Article 600
1. Transfer of the enforcement of court decisions pursuant to this Section takes place only subject to the general provision that the punishment or measure imposed by a court in the Country will not be changed to the detriment of the convict and that the part of that punishment or measure already enforced in this country must be taken into account.
2. A convict who undergoes or must yet undergo a sanction serving for his deprivation of liberty will be made available to the authorities of a foreign state with which agreement is reached regarding the further enforcement of that sanction by the Attorney-General at the earliest opportunity, at a date and place to be determined by the Attorney-General following consultation with those authorities.

3. The transfer of a convict who has not declared his consent to the transfer or the enforcement will not take place other than under the general provision that only with the explicit permission of the Minister will he:

a. be prosecuted, punished or restricted in his personal freedom in any way with regard to the offences that were committed prior to his transfer and regarding which the enforcement has not been transferred, and
b. be made available to the authorities of a third state in relation to offences that were committed before the date of the transfer, unless the convict has had an opportunity since then to leave the territory of the state to which he was transferred.

4. At the moment when a convict is made available to the authorities referred to in paragraph 2, the enforcement of the sanction imposed on him will be suspended in the Country, by law.
5. In the case of a resumption of the right of enforcement of the sanction, the part of this already enforced in other countries will be deducted from this.

Section 5
Final provisions

Article 601
The provisions of this Code concerning the deprivation of liberty or pre-trial detention apply likewise to orders issued pursuant to this Title for provisional deprivation of liberty or for its extension or termination, unless provided otherwise by any provision of this Title.

Article 602
1. The provisions of and pursuant to Article 62 apply likewise with regard to the convict who is provisionally deprived of his liberty pursuant to Article 576(3).
2. The provisions of and pursuant to Articles 63 and 65 to 69, as well as the provisions of this Code concerning the action of the counsel and the notification of case documents, apply likewise.

Article 603
In cases in which it has been finally established that enforcement of a foreign court decision in the Country should not take place, the Court, at the request of the convict, may award him compensation at the expense of the Country for the damage he suffered and the costs that he incurred as a result of provisional deprivation of liberty ordered pursuant to this Title. Title II of Book 8 applies.

Article 604
The Minister will decide on requests for through transfer across the territory of the Country of foreigners who will be made available for the enforcement of a court decision by the authorities of a foreign state to the authorities of another state.

TITLE X
Transfer and takeover of criminal prosecution

Paragraph 1

Transfer of criminal prosecution

Article 604a

1. If the Attorney-General considers it desirable, in the interests of good administration of justice, that a foreign state institutes prosecution of a defendant for an offence which he is authorised to investigate, he shall make a proposal to the Minister, stating his reasons, for inducement of prosecution in that state, submitting the case file if possible.
2. If pre-trial detention is applied and the Attorney-General makes a proposal pursuant to paragraph 1, he will notify a defendant located in the Country or who has a known abode outside the Country that he has proposed the prosecution of the offence to which the criminal investigation related for transfer to a foreign state. This notification will be served upon the defendant.
3. In the event of notification as referred to in paragraph 2, no notification of non-prosecution will be issued.
4. If the injured party has given notice of a desire to join the proceedings, a proposal as referred to in paragraph 1 may be made only with that party's written consent or, if such consent is not obtained, with the authorisation of the Court. The authorisation will be granted in response to a claim of the Attorney-General.
5. The defendant may submit a written complaint against a notice as referred to in paragraph 2 to the Court within 14 days. Title IV of Book 1 applies likewise, with the proviso that where reference is made in the Title to 'the complainant' or 'the person whose prosecution is required', for the purposes of this provision, this refers to the defendant.
6. A proposal, as referred to in paragraph 1 may be limited to the inducement of prosecution in the foreign state for the imposition of a sanction that serves for the recovery of unlawfully acquired benefits and its enforcement.
7. On the application of paragraph 1, the Attorney-General, as soon as possible after the close of the investigation of telecommunications and, if notification as referred to in paragraph 2 is mandatory, no later than the date on which he provided for the service of this notification on the defendant, shall add the statements or other objects referred to in Article 177k(1), in as far as he regards these as being of significance for the investigation in the case, to the case file.

Article 604b

1. As soon as possible after the receipt of a proposal as referred to in the preceding Article, the Minister will take a decision concerning the response to be made to this. If the request for prosecution to the authorities of the foreign state can be based on a treaty, he will observe the provisions of that treaty.
2. Except in the cases in which an applicable treaty provides otherwise, a request for prosecution to the authorities of a foreign state will be made through the intermediary of the Minister for Home Affairs and Kingdom Relations.
3. A request for prosecution made to the authorities of a foreign state may be withdrawn no later than the receipt of a notice concerning the decision taken in that state in response to that request. Such a request will be withdrawn if the Court, pursuant to Article 604a(5) orders that the prosecution will be continued in the Country.

Article 604c

1. After he has submitted a proposal as referred to Article 604a, the Attorney-General may not file the criminal proceedings against the defendant at the hearing or move to enforcement of a judgment handed down earlier against the defendant, except in the event of:
   a. rejection of the proposal,
   b. withdrawal of the request to the authorities of the foreign state for prosecution, or
   c. notification by the authorities that a decision has been made rejecting the request or that prosecution commenced in response to the request has been discontinued.
2. In that case, the Attorney-General will withdraw a notification as referred to in Article 604a(2) in. He will notify the defendant of the withdrawal

Article 604d
The Minister shall notify the Attorney-General, who has made a proposal as referred to in Article 604a, in writing of the decision he has taken in that regard, as well as of the notices he has received concerning decisions of the authorities of the foreign state in response to the request for prosecution made on the proposal of the Attorney-General.

Article 604e
In as far as the applicable treaty explicitly provides for the direct dispatch of requests for prosecution by judicial authorities, the Attorney-General is authorised, if he considers it desirable in the interests of good administration of justice that a foreign state institutes prosecution of a defendant for a criminal offence which he is responsible for investigating, to request foreign judicial authorities to prosecute. Articles 604a(2) to 604a(7), 604b(3) and 604c apply likewise.

Paragraph 2
Takeover of criminal prosecution

Article 604f
The request of a foreign authority to institute prosecution, if it is not addressed to the Attorney-General, will be forwarded to the Attorney-General without delay by the addressee.

Article 604g
(no text)

Article 604h
1. The Attorney-General will immediately reject a request from a foreign authority to institute a prosecution if it can immediately be established that
   a. the offence for which prosecution is requested
      1°. is not a criminal offence according to the law of the Country;
      2°. is of a political nature or is related to a criminal offence of a political nature;
      3°. is a military offence;
   b. the right to criminal proceedings due to the offence for which prosecution is requested has become prescribed according to the law of the Country or that of the state from which the request was issued;

c. the request for prosecution serves to affect the person to whom it relates in relation to his religious, ideological or political convictions, his nationality, his race or the population group to which he belongs;
d. prosecution in the Country would conflict with the provisions of Article 1:143 of the Criminal Code.

2. The Attorney-General may reject a request from a foreign authority to institute a prosecution if this relates to a foreigner who has his permanent place of residence or accommodation outside the Country.
3. Granting a request that serves for criminal proceedings concerning recovery of unlawfully acquired benefits will take place independently of the question of whether the person to whom the request relates has his permanent abode within the Country.

Article 604i

The person to whom the request relates will be heard by the Attorney-General in that regard, or will be correctly summoned for such a hearing if the request is based on a treaty and the authorisation for prosecution follows from that treaty for the Country.

Article 604j

1. The Attorney-General who has received a request from a foreign authority to institute a prosecution will decide on the response to be made to this as soon as possible.
2. The Attorney-General will in any event reject a request if one of the grounds named in Article 604h proves to exist.
3. The Attorney-General will also reject a request that is not based on a treaty if, in his view, no prosecution could take place against the person to whom the request relates in the Country for the offence of which he is charged.
4. If the request is based on a treaty, the Attorney-General will observe the grounds for rejecting a request for prosecution named in that treaty.

Article 604k

Before taking his decision concerning the request for prosecution, the Attorney-General may invite the authorities of the state from which the request was issued to provide further information within a term that he sets if there is a need for this in view of the decision concerning the request.

Article 604l

1. Until the investigation at the hearing has commenced, the Attorney-General may withdraw the approval of a request for prosecution if circumstances prove to exist that, had they been known at the time of the decision on the request, would have led to its rejection.
2. The approval of a request for prosecution may also be withdrawn if the punishment to which the defendant is sentenced cannot be enforced.

Article 604m

1. The Attorney-General will notify the authorities of the state from which the request was issued of his decision regarding the request for prosecution.
2. He shall also notify those authorities of the outcome of the prosecution instituted in response to the request.

Article 604n
A person regarding whom no authorisation for prosecution exists in the Country may nevertheless be detained, in as far as this is permitted by a treaty. Articles 71 to 118 and Title II of Book 8 apply likewise.

Article 604o
1. The documents concerning official actions relating to investigation and prosecution, which the authorities of the state from which the request for prosecution was issued will submit in response to the request, have the evidential value assigned to documents concerning equivalent actions performed by the officers of the Country, with the proviso that their evidential value does not exceed that which they have in the foreign country.
2. If a request is approved, as referred to in Article 604h(3), a criminal financial investigation can be instituted in accordance with the provisions of Title XVI, Book 3.

Article 604p
1. A request to extradite a person located in this country who is suspected of or has been convicted of a criminal offence will be regarded as an approved request for prosecution, in as far as necessary pursuant to specific treaties.
2. The provisions of the opening sentence of Article 604h(1) and 2a then do not apply.

Article 604q
(no text)

BOOK EIGHT
Enforcement and costs

TITLE I
Enforcement

Section 1
General provisions

Article 605
The enforcement of court decisions takes place on the orders of the Public Prosecutors Office under the responsibility of the Minister.

Article 606
1. At his own initiative, the Clerk of the Court provides a copy of the sentence to the injured party who has joined the proceedings in the criminal case, free of charge. The injured party himself provides for enforcement of the sentence, in as far as this concerns his claim, in the manner laid down for sentences in civil cases. If this concerns an oral sentence, the enforcement takes place on the basis of a notification from the Clerk of the Court, containing a copy of the registration of the sentence, stating the injured party, the person against whom the judgment was handed down and the court which handed down the judgment, headed by the words: ‘In the name of the King’.

2. The provisions of paragraph 1 apply likewise if the court imposed the compensation for damage measure referred to in Article 1:78 of the Criminal Code, and detention was applied in the absence of settlement of the amount payable.

Article 607

If this Code prescribes any service, summons, subpoena, notification or other notice, this is issued on the orders of the Public Prosecutors Office if no other provision is made.

Article 608

The Public Prosecutors Office may issue the necessary special or general orders for the enforcement of judicial decisions or its own decisions to the bailiffs and to the police officers, military officers or officers of the Royal Military Police, in as far as they provide assistance for the performance of the police task, or to other officers, as well as to the shipmaster for enforcement on board a vessel of the Country or on an installation at sea, in as far as this is permitted by international low and inter-regional law. For the enforcement of orders to seize shares and registered securities and to seize and return registered real estate, the special orders are directed at the bailiff.

Section 2
Enforceability of decisions

Article 609

1. In as far as no other provision is made, no decision may be enforced as long as any ordinary legal remedy against this is still available and, if this is deployed, until it is withdrawn or a decision is made in that regard.
2. If a notice is prescribed, as referred to in Article 411, the enforcement of the sentence may take place following the service of that notice. With default judgments, for which such notification need not take place, the enforcement can take place after the judgment. As a result of applications to set aside default judgments, appeals or appeals in cassation, the enforcement is suspended or discontinued.

3. The final sentence of paragraph 2 does not apply:
   a. for orders issued with the judgment, which are actually enforceable;
   b. if, in the view of the Public Prosecutors Office, it is established that the legal remedy was deployed after the expiry of the term set for this, or at the request of the party that deployed the measure and, after being heard, if he requested this with the request, the head of the bench of the Court or the Court of First Instance rules otherwise.
4. A judgment on the claim of the Public Prosecutors Office, as referred to in Article 1:77 of the Criminal Code, may first be enforced after the conviction referred to in Article 1:77(1) and 1:77(3) of the Criminal Code has become final.

Article 610

1. Pardons may be requested and granted for all final primary and additional punishments imposed by the criminal courts, with the proviso that no pardons will be granted for unconditional financial penalties up to a sum equal to the maximum of the first category of Article 1:54 of the Criminal Code.

2. Pardons may also be requested and granted with regard to:
   a. punishments imposed pursuant to a court decision in a foreign state and to be enforced in the Country with the application of Article 593 or after an appeal filed pursuant to Article 592b is declared to be unfounded;
   b. a prison sentence imposed by the International Criminal Court for an offence directed against the administration of justice of the Criminal Court, the enforcement of which takes place in the Country in accordance with Article 67 or 68 of the International Criminal Court Implementing Act;
3. Pardons may be requested and granted with regard to final placement under hospital order measures imposed by the court with government nursing, placement in an institution for criminal law care of addicts, withdrawal from circulation and recovery of unlawfully acquired benefits.

Article 611

1. A petition for a pardon leads to suspension of the enforcement or commencement of the sentence for which a pardon is requested and for which enforcement has not yet commenced, or in the cases in which the request relates to a final judgment with the following sentences:
   a. a custodial sentence of six months or less;
   b. a custodial sentence of six months or less which was imposed provisionally and enforcement of which was ordered pursuant to Article 1:26 or 1:186 of the Criminal Code;
   c. a financial penalty;
   d. a community service order.
2. A petition for a pardon also leads to suspension of the enforcement of the sentence or measure in the cases in which enforcement has not yet commenced one year after the court decision regarding which a pardon is requested, other than at the request of the convict, became final.
3. Rules concerning the time of the commencement of the enforcement referred to in paragraphs 1 and 2 may be imposed by national decree containing general measures.

Article 612

Article 611 does not apply if:

a. the convict is absent without leave;
b. the convict has been deprived of his liberty by law, either pursuant to the court decision imposing the custodial sentence for which a pardon is requested or on other grounds pursuant to a court decision;
c. the petition for a pardon relates to one or more punishments or measures concerning which a decision on a petition for a pardon has already been handed down previously;

d. the petition was filed at a time when a convict was serving a custodial sentence or a deprivation of liberty measure in the territory of a foreign state which is handling a request for his extradition from the Country or has ordered his provisional detention with a view to this;
e. the request relates to punishments and measures, the enforcement of which has been transferred to a foreign state.

Article 613

1. The Minister will notify the Public Prosecutors Office and the convict of the commencement of the suspension of the enforcement associated with the submission of a petition.
2. If a petition is filed for a pardon for a custodial sentence, or a measure involving placement under a hospital order with government nursing or the measure of placement in an institution for criminal law care of addicts, without a national ordinance attaching the suspension or enforcement to this, the Minister may nevertheless decide that the enforcement will be suspended or withdrawn for as long as no decision has been issued on the petition. He notifies the Public Prosecutors Office of this.
3. The withdrawal or suspension commences as soon as the Public Prosecutors Office responsible for the enforcement of the court decision has become aware of the notice referred to in paragraph 1. The suspension or withdrawal lasts until a decision is made on the petition.
4. After the notice referred to in paragraphs 1 or 2, the Public Prosecutors Office ensures that the enforcement of the punishment or measure for which a pardon is requested is suspended or withdrawn in accordance with the applicable statutory regulations in that regard.

Article 614

A petition for a pardon originating from a third party will be set aside with no further handling if it is found that the person on whom the punishment or measure is imposed does not consent to the petition.

Article 614a

Requests serving for a reduction, change or discharge from measures imposed by the criminal court other than those referred to in Article 610(3) will be placed in the hands of the authority that is authorised by law to terminate the enforcement of those measures or the accompanying obligations imposed to either nullify changes or to decide on these.

Article 614b

1. If a decision is made in favour of a petition for a pardon in relation to a punishment or measure, the enforcement of which has already commenced or been completed, the amount of the financial penalty paid or the part of the amount of the unlawfully acquired benefits fixed by the court already paid, will be refunded.
2. Objects that are seized or withdrawn from circulation will be returned by the custodian following a decision in favour of a petition for a pardon for the punishment or measure. Article 145(2) applies likewise.

Article 615

1. In as far as the enforcement is permitted, the sentence will be enforced as soon as possible.
2. If the sentence consists of a financial penalty or a measure as referred to in Article 1:78 of the Criminal Code, the Public Prosecutors Office will determine the latest day or, in the case of the application of Article 1:56 of the Criminal Code, the days on which the payment must be made. He ensures that the convict is notified of this in a timely manner.
3. The Public Prosecutors Office may permit deferral of payment or payment in instalments. If Article 1:56 of the Criminal Code is applied, the Public Prosecutors Office may permit a payment arrangement that is more favourable for the convict, on his request.

Article 616

1. If, before the enforcement of a final sentence comprising a custodial sentence, the convict comes to suffer a disorder of his mental capacity, the court that handed down the sentence may order the suspension of the enforcement.
2. The suspension will be ordered on the claim of the Public Prosecutors Office or in response to the petition of the lawyer of the convict. The provisions of Title II, Book 2 apply with regard to the lawyer.
3. After his recovery, the suspension order will be withdrawn by the same court, in response to a claim of the Public Prosecutors Office.

Article 617

1. If, despite the mental disorder of the convict, the enforcement of sentences other than those referred to in Article 616 is possible, the administrator will be invited in the normal way to comply with the sentence. If the convict does not yet have an administrator, the latter will, if necessary, be named for that purpose on the claim of the Public Prosecutors Office.
2. Article 616 applies with regard to the replacement punishment.

Section 3
Enforcement of custodial orders and sentences

Paragraph 1
General

Article 618

1. The order to enforce a custodial sentence or guilty verdict includes the most accurate description possible of the person to be arrested, a statement of the decision or order on which the description is based and a statement of the location to which the detainee must be taken or of the court or officer before which the detainee must be brought.
2. If this is specifically stated in the order, the person to be arrested may be held outside the territory of the Country, in as far as this is permitted by international law and inter-regional law.
3. The provisions of paragraph 2 do not apply for an order to bring forward a defendant, witness, expert or interpreter.
4. The person who has detained a person in accordance with the order will bring the detainee to the location of the court or official referred to in the order without delay.
5. If the arrest takes place outside the jurisdiction of the Country, Articles 522, 534 and 535 apply likewise.
6. Regulations concerning the issue of orders, as referred to in paragraph 1, may be laid down by or pursuant to a national decree containing general measures.

Article 619

1. If the arrest takes place outside the jurisdiction of the Country and the detainee claims that he is not the person to whom the order is directed, the person who made the arrest shall notify the Public Prosecutors Office of the claim of the detainee without delay, in the fastest possible way.
2. In the event of persistent doubts, Section 4 of this Title applies.

Article 620

1. The officer responsible for the enforcement may, for the purpose of the arrest of the person to be arrested, enter and search any location. Articles 155 to 164 apply. However, if the arrest takes place outside the jurisdiction of the Country, Article 539 applies likewise.
2. With a view to establishing the abode of the person to be arrested, the public prosecutor, or, if the articles identify the assistant officer or the investigating officer as qualified, this officer, may apply the powers referred to in Articles 121 to 129a, 167 to 174, 177l and 177p to 177t, and the examining judge may apply his authorisation pursuant to Article 137, with the proviso that:
   a. a power purely for the purpose of establishing the abode of the person to be arrested will be applied if the person to be arrested is prosecuted or a custodial sentence is imposed on him or if a deprivation of liberty measure is imposed for an offence of the same severity as that for which the power may be exercised pursuant to the relevant Article;
   b. a power that, pursuant to the relevant Article, may be exercised only with an authorisation by the examining judge, with a view to determining the abode of the person to be arrested, may also be exercised only with a written authorisation to be granted on a claim of the public prosecutor by the examining judge;
   c. if an order or claim is required for the exercise of a power pursuant to the relevant Article, if the power is exercised with a view to determining the abode of the person to be arrested, the order or claim must contain the data, where relevant, that must be included according to the relevant Articles of the law.

Article 621

1. The admission of a person against whom a deprivation of liberty order has been issued or in respect of whom a sentence is enforced to the custodial institution for that purpose takes place either on the presentation of the pre-trial detention order or custody order, or the sentence or an extract of this, or on presentation of the enforcement order of the Public Prosecutors Office.
2. In the latter case, the officer who issued the order sends the pre-trial detention or custody order or, in the case of the enforcement of a custodial sentence, the sentence or an extract of this to the head of the institution at the earliest opportunity.
3. In the case of the enforcement of a custodial sentence imposed by an oral judgment, the admission referred to in paragraph 1 will take place on presentation of:
   a. either the record of the hearing or a copy of or extract from this;
   b. either the enforcement order of the Public Prosecutors Office, or a copy of this.
4. In the case referred to in paragraph 3b, the officer who issued the order sends the record of the hearing, or a copy of or extract from this, containing a report of the oral sentence, to the head of the institution at the earliest opportunity.

Article 622

The head of the custodial institution at which the punishment of deprivation of liberty is enforced is required to maintain a register in accordance with a model to be established by the Minister.

Article 623

1. In the register referred to in Article 622, the surname and first names, occupation, place of birth and place of residence or accommodation are recorded on the admission of a person in respect of whom a deprivation of liberty order or a custodial sentence is enforced. If the foregoing is not known, this will be reported.
2. The registration also designates:
   a. the court or officer whose decision is enforced;
   b. the date of that decision; the date and time at which the admission takes place and if possible, the time at which the deprivation of liberty commences;
   c. on conviction, the term of the sentence.
3. The registration is co-signed by the officer who enforces the order or sentence. That officer receives from the head of the custodial institution the written declaration that the admission has taken place, which declaration he hands over to the officer on whose orders the enforcement took place.

Article 624

1. In the register referred to in Article 622, the date and time at which the prisoner or patient's stay in the institution ends is noted alongside the registration, stating the decision pursuant to which, or any other cause as a result of which this takes place.
2. the head of the custodial institution signs the registration and the notes referred to in this Article.

Article 625

1. The release takes place via the head of the custodial institution:
   a. on the final day of the sentence, if the term of the sentence is no more than three days;
   b. on the final day of the sentence that is not a Sunday or generally recognised public holiday, if the term of the sentence is more than three days and less than two months;
   c. in cases other than the enforcement of a custodial sentence, on the final day of the sentence that is not a Saturday, Sunday or generally-recognised public holiday;
   d. as soon as the validity of the detention order expires;
   e. as soon as the competent authority has charged the head of the institution to release the detainee.
2. The release in any event takes place at the time at which the sentence expires.
3. If the release according to the opening sentence and sub-paragraphs (a), (b) or (c) of paragraph 1 takes place before the sentence is fully completed, the right of enforcement of the remaining part of the sentence lapses.
4. For the application of paragraphs 1 to 3, in cases in which an order, as referred to in Article 1:19 of the Criminal Code, has been issued for part of the punishment, only that part is taken into account, in as far as the enforcement of this is ordered by the court.

Article 626

If the convict must serve more than one sentence consecutively, these are regarded as a single sentence for the purposes of the application of the opening sentence of Article 625(1) and sub-paragraphs (a), (b) or (c) of that Article.

Article 627

1. The Court of Justice monitors compliance with the provisions of Articles 621 to 626 and to that end, provides for the custodial institutions to be visited by one or more members at undefined times, but at least twice a year.
2. A written report on the findings is sent to the Minister on each occasion.
3. The public prosecutor is required to pay visits and make reports as referred to in paragraphs 1 and 2.

Paragraph 2
Financial penalties and compensation for damage measure

Article 628

1. Sentences imposing financial penalties or measures as referred to in Article 1:78 of the Criminal Code are enforced by the Public Prosecutors Office.
2. Further rules relating to the payments referred to in paragraph 1 may be imposed by national decree containing general measures. These rules also relate to the costs of any recovery and the collection costs.

Article 628a

The public prosecutor may require any person to provide the information that can reasonably be deemed to be necessary for the enforcement of a sentence to pay a financial penalty or of a measure as referred to in Article 1:78 of the Criminal Code. Article 121a(3) applies likewise.

Article 629

1. In the absence of full payment within a term as referred to in Article 615, the amount due, plus the increases provided for in Article 1:57 of the Criminal Code, will be recovered from the objects of the convict, following a written warning. In connection with the recovery, domicile may be elected at the offices of the Public Prosecutors Office.
2. The Public Prosecutors Office may waive the recovery.
3. If full recovery proves to be impossible or the application of recovery is waived with the application of paragraph 2, the replacement custodial sentence will be implemented, following a written warning.
4. Unless the convict has no known residence or accommodation in the Country, the enforcement of the replacement custodial sentence will not take place until 14 days have passed since the date on which the warning referred to in paragraph 3 was sent to him.

Article 629a

1. Recovery of objects seized pursuant to Article 119a shall take place in the manner provided for in the Code of Civil Procedure, pursuant to the final sentence imposing the financial penalty or the obligation to pay the Country a sum of money for the victim, as referred to in Article 1:78 of the Criminal Code.
2. The sentence referred to in paragraph 1 applies as an entitlement to enforcement. The service of this order on the convict and, if the goods were attached by garnishment, on the third party, may take place through service of a notice containing the penalty imposed in the sentence, in as far as this is relevant to the recovery.
3. The provisions of the Code of Civil Procedure apply with regard to third parties that believe they have full or partial rights to the seized objects.

Article 630

1. For objects of the convict that were not seized pursuant to Article 119a, recovery takes place pursuant to a writ of execution entailing the right to affect those objects without a court judgment. The objects referred to in Article 119a(3) and 119a(4) that were not already seized before the sentence became final may also be recovered.
2. The writ of execution is issued by the Public Prosecutors Office in the name of the King. It is enforced as a judgment of the civil courts.
3. The execution of the writ of execution cannot be suspended other than by an appeal, which, however, may in no case be directed against the sentence in which the financial penalty is imposed. An appeal is filed by means of a petition, stating the reasons, which is submitted to the court of first instance that imposed the sentence before the sale and no more than 14 days after the date of the seizure. The Court of First Instance decides within 14 days on a decision, stating the reasons, which is served on the convict without delay. The Public Prosecutors Office may file an appeal against this decision within 14 days of the date on which it is handed down and the convict may do so within 14 days of its service. The convict's appeal is admissible only with the prior consignment of the amount still payable and if applicable, after payment of court registry fees to be determined by national decree containing general measures. The Court shall hand down a decision at the earliest opportunity.
4. With regard to third parties who, in the case of a seizure of objects, believe that they hold full or partial rights to these, the provisions of the Code of Civil Procedure apply.
5. The costs of the recovery pursuant to this Article will also be recovered from the convict. 'Recovery costs' also refers to the collection costs.

Article 631

1. Recovery without a writ of execution may take place with regard to:
   a. financial income from employment of the convict;
   b. pensions, retainers and other benefits to which the convict is entitled;
   c. the credit balance of an account at a financial institution which the convict may dispose of to his own benefit.
2. Recovery with the application of paragraph 1 takes place by means of a written notice from the Public Prosecutors Office. The notice contains an indication of the person of the convict sufficient for the execution of the recovery and states the amount still payable on the basis of the conviction, the judicial institution that imposed the financial penalty and the location at which payment must take place. It is issued to the person under whom the recovery takes place and is served upon the convict.
3. Through the service of the notification, the party from which recovery takes place is required to pay the national treasury the amount referred to in the notice, in as far as the convict has or acquires a collectable claim against him. The Public Prosecutors Office determines the term within which the payment must take place. The obligation to pay lapses as soon as the amount due on the basis of the sentence is paid or recovered and no later than two years after the date of service.
4. The person from whom recovery takes place may not invoke the elimination or reduction of his debt to the convict, at the expense of the national treasury, through payment or settlement with a counter-claim, except in cases in which he would also have been authorised to do so in

the case of garnishment imposed at the time of the service, in accordance with the Code of Civil Procedure. If another creditor has garnished goods under the claim on which the recovery is based, Article 478 of the Code of Civil Procedure applies likewise. For the purpose of the applicable Articles of the bankruptcy legislation, the recovery is equated with garnishment.

5. If recovery is effected on the basis of the convict's claim for payment in instalments, as referred to in paragraph 1(a) and 1(b), Article 475a of the Code of Civil Procedure applies likewise.
6. Within seven days of the service of the notification referred to in paragraph 2, every interested party may file an appeal against the recovery by means of a petition, stating the reasons. Article 630(3) applies to such objections.
7. The recovery costs pursuant to this Article are also charged to the convict. 'Recovery costs' also refers to the collection costs.

Article 632

1. If objects that are not seized are confiscated, Articles 615(2), 615(3) and 628 apply likewise.
2. If neither delivery of the objects nor payment of their estimated value take place within the term set for this, Articles 629, 630 and 631 apply likewise.

Article 633

Forfeiture of claims will be enforced through the service of the judgment on the debtor.

Paragraph 3
Deprivation measure

Article 634

1. If the measure referred to in Article 1:77 of the Criminal Code is imposed, Articles 615(2), 615(3) and 628 to 631 apply likewise.
2. In response to the claim of the Public Prosecutors Office or the written request of the convict or an injured third party, stating their reasons, the court that imposed the measure referred to in paragraph 1 may reduce or discharge the amount fixed and the replacement detention ordered in this. If the amount has already been paid or recovered, the court may order that part or all of this will be returned or paid to a third party designated by the court. The order is without prejudice to each party's right to the amount refunded or paid.
3. If a higher amount proves to have been fixed than the sum of the actual benefits, the court will issue an order serving for a reduction or return of an amount at least equal to the difference. As a result, an increase that has already commenced pursuant to Article 1:57 of the Criminal Code lapses by law.
4. The claim or request will be handled in a public session of the Council Chamber unless the request appears to be unfounded according to the rules of Title VI of Book 1.
5. The claim and the request referred to in paragraph 2 may no longer be filed after three years have passed from the date on which the amount or the last part of this were paid or recovered.
6. The court may officially order that pending its decision, the measure shall not be enforced. The Public Prosecutors Office will be notified of the order without delay.

7. The decision will be served on the convict and, if it is handed down in response to the request of a third party, also on that third party. It is not subject to any ordinary legal remedy.

Article 634a

1. In the absence of full payment within the intended term pursuant to Article 615(2), an investigation may be opened into the assets of the convict pursuant to an authorisation of the examining judge, stating the reasons, on the claim of the public prosecutor.
2. The investigation is aimed at determining the scale of the convict's assets that are subject to recovery action for the enforcement of the measure referred to in Article 1:77 of the Criminal Code.
3. The claim states the reasons and the amount of the payment obligations imposed, the amount that the convict has already paid in settlement and whether a claim has been filed, as referred to in Article 634(2).
4. The examining judge shall grant the authorisation referred to in paragraph 1 if:
   a. the amount of the remaining payment obligation is of considerable significance, and;
   b. there are indications that objects belonging to the convict are subject to recovery pursuant to Article 634.
5. The authorisation applies for a maximum of six months and may be extended for the same period on each occasion on the claim of the public prosecutor until the maximum term of two years is reached.
6. The examining judge shall guard against unnecessary delays in the investigation. The public prosecutor shall provide the necessary information at his own initiative or at the request of the examining judge.
7. If the public prosecutor finds that the investigation has been completed and that there are no grounds for its continuation, he shall close the investigation by means of a written dated decision. A copy of the decision shall be served upon the convict against whom the investigation was directed. The public prosecutor shall notify the examining judge of the close of the investigation.
8. The investigation of the convict's assets also ends:
   a. if the term of validity of an authorisation granted pursuant to paragraph 1 has expired;
   b. if the convict has complied with his payment obligation after all.

Article 634b

1. For the purpose of the investigation into the convict's equity, the investigating officer is authorised to take the following action in the interests of the investigation, on the basis of an order to that effect from the public prosecutor:
   a. to require any person to state whether and if so, which asset elements that belong or belonged to the party against whom the investigation is directed he holds or held;
   b. to claim the provision of certain stored or recorded personal identification data, such as the name, street name and number, town or city, postal address, date of birth, gender and administrative characteristics of a person who reasonably qualifies for this and who processes those data other than for personal use.
   c. to claim the provision of data concerning the name, street name and number, postal code and town/city and type of service of a user of a

communication service from every provider of a communication service;
   d. to follow a person in a planned manner or to observe the presence or the conduct of a person in a planned manner;
   e. if the conviction relates to an offence for which pre-trial detention is permitted, to enter an enclosed space, not being a residential property, without the consent of the right-holder or to deploy a technical device to record that location, secure traces there or to deploy a technical device there in order to establish the presence or relocation of goods there.
2. Article 177b(2), 177b(3) and 177b(5) apply likewise to the claim referred to in paragraph 1(a).
3. Article 177s(2), 177s(3), 177s(5) and 177s(8) apply likewise to the claim referred to in paragraph 1(b).
4. In the interests of the investigation, the public prosecutor may decide that a technical device may be deployed in the exercise of the powers referred to in paragraph 1d, in as far as no confidential communications are recorded with this. A technical device will not be attached to a person without his consent.
5. In the interests of an investigation, the public prosecutor may decide that, for the execution of the powers referred to in paragraph 1d, an enclosed space, not being a residential property, may be entered without the consent of the right-holder.
6. Article 177l(4) applies likewise to the order referred to in paragraph 1d.
7. Pending the arrival of the bailiff, the investigating officer may take the measures that are reasonably necessary in order to secure objects that qualify for recovery. These measures may restrict the freedom of persons present at the location.

Article 634c

1. An order of the public prosecutor, as referred to in Article 634b, as well as any change, addition to, renewal or withdrawal of this, shall be issued in writing. An oral order that is recorded in writing without delay is deemed to be equivalent to a written order.
2. An order may be changed, supplemented, extended or withdrawn.
3. The order shall state:
   a. the convict's name;
   b. the term of validity of the order;
   c. in as far as necessary, the way in which the order should be applied.
4. If an enclosed space is entered, the order also states:
   a. the location to which the order relates;
   b. with the application of Article 634b(1)(e), the time at which or the period within which the order will be executed.
5. The investigating officer shall draw up a record on the execution of the order. The record shall state:
   a. the data referred to in paragraphs 3 and 4;
   b. the way in which the order was executed;
   c. the data provided in response to an order or claim;
   d. the facts and circumstances showing compliance with the conditions referred to in Article 634b.
6. If an order is issued orally and a change, addition to, renewal or withdrawal of an order, as referred to in paragraph 2, is not recorded in writing, this will be reported in the record.

Article 634d

1. In the interests of the investigation, the public prosecutor may claim that a person who can reasonably be assumed to have access to certain stored or recorded traffic data relating to a communication service provide those data.
2. Article 177s(2), 177s(3), 177s(5) and 177s(8) apply likewise.
3. The public prosecutor shall draw up a record of the provision, stating:
   a. the data referred to in Article 177s(3);
   b. the data provided in response to the claim;
   c. the reason why the data are claimed in the interests of the investigation.
4. In the interests of an investigation, the public prosecutor may decide that a claim, as referred to in paragraph 1, may relate to the data that will first be processed after the date of the claim. The maximum period for which the claim extends is four weeks and it may be renewed by a maximum of four weeks on each occasion. The public prosecutor reports this period in the claim. Paragraphs 2 and 3 apply likewise.
5. If a claim relates to data that will be processed after the claim period, the claim will be terminated as soon as the processing is no longer in the interests of the investigation. The public prosecutor will provide for a record to be drawn up of any change, addition to, renewal or termination of the claim.
6. If this is urgently required in the interests of the investigation, the public prosecutor may decide that the person against whom the claim is directed will provide the data immediately after their processing, or within a particular period following the processing on each occasion. The public prosecutor requires the prior written authorisation of the examining judge for that purpose.
7. If required in the interests of the investigation, the public prosecutor may, on or immediately after the application of paragraphs 1 or 4 order the person who can reasonably be assumed to have knowledge of the encryption method of the data referred to in paragraphs 1 and 4 to provide assistance with accessing the data by reversing the encryption or making this knowledge available. This order will not be given to the convict. Article 121a(3) applies likewise.

Article 634e

1. In the interests of the investigation, the public prosecutor may issue a written claim for the provision of data on a user of a communication service and the communications traffic relating to that user.
2. In that case, Articles 177s and 177u, as will as the general provision of Title XVII of Book 3 apply likewise.
3. Article 177s(8) applies likewise.

Article 634f

1. In the interests of the investigation, the public prosecutor may order an investigating officer to record communications that are not intended for the public, that take place with the use of the services of a provider of a communication service, using a technical device.
2. The order referred to in paragraph 1 may be issued only with the prior written authorisation of the examining judge. Article 177r(3) applies likewise.
3. The order will be issued for a maximum term of four weeks. In addition to the data referred to in Article 634c(3), the order will state:
   a. if possible, the number or another indication with which the individual user of the communication service is identified, and:

b. in as far as known, the name and address of the user, and:
c. the nature of the technical device or the technical devices with which the communications are recorded.

4. If the communications referred to in paragraph 1 are recorded, the public prosecutor may, if urgently required in the interests of the investigation, order the person who can reasonably be assumed to have knowledge of the encryption method for the communications to provide assistance with accessing the data, either by making this knowledge available or by reversing the encryption. The order will not be directed at the convict. Article 121a(3) applies likewise.
5. The claim referred to in paragraph 4 may be submitted only with the prior written authorisation of the examining judge.
6. Article 634c(5) applies likewise.

Article 634g

1. If the investigation into the convict's equity has been closed, Articles 177ka and 177kc apply likewise.
2. As soon as two months have passed since the close of the investigation and the persons concerned have been sent the notification referred to in Article 177ka, the public prosecutor will ensure that the records and objects from which data can be derived and that were acquired with the exercise of the powers referred to in Articles 634a to 634f are destroyed. A record of the destruction will be drawn up.

Paragraph 4
Transaction

Article 635

If the Public Prosecutors Office sets conditions, in accordance with Article 1:149 of the Criminal Code, for prevention of prosecution, it will also set the terms within which the conditions must be met and if necessary, also the location at which this must take place. The term set may be extended.

Paragraph 5
Settlement

Article 635a

1. If the public prosecutor agrees a settlement with the defendant or convict in accordance with Article 500, he will set the term within which compliance with the terms of the settlement must take place. Until that time, the term within which a claim must be filed pursuant to Article 499(1) will be suspended. Through compliance with the terms, the right to submit the claim lapses or, if the claim has already been submitted, the case is closed by law.
2. If, following satisfaction of the terms referred to in paragraph 1, it is found that circumstances that could have ruled out the application of the measure referred to in Article 1:77 of the Criminal Code, the former defendant or convict may request the return of financial payments made or seized objects from the public prosecutor.
3. Within 14 days of the former defendant or convict becoming aware of the decision on a request made in accordance with paragraph 2, he may submit a written complaint to the Court to which the public prosecutor is assigned.

4. The complaint may also be filed if 30 days have passed since the submission of the request and no decision has yet been made in that regard.
5. If the Court finds the complaint to be well-founded, it will order the return of the amounts paid or the objects transferred, in accordance with the principles of reasonableness and fairness.
6. The handling of the complaint by the Council Chamber shall take place in open court.
7. The petition referred to in paragraph 2 may no longer be filed after three years have passed since the date on which the amount or the final instalment of this was paid.

Section 4
Court proceedings to identify convicts or other persons subject to judgments

Article 636
If a person who is detained for the purpose of serving a sentence continues to deny that he is the convict, or if doubts about this persist despite admission, the court that heard the criminal case in the first instance will decide on whether he is the convict.

Article 637
1. In response to the claim of the Public Prosecutors Office, the investigation will be commenced in a hearing to be determined by the court, with the greatest urgency.
2. The Public Prosecutors Office will arrange to summons the detainee, the witnesses who will be heard on his behalf and those which the detainee calls. Article 287(2) applies likewise with regard to all these witnesses.
3. If the Public Prosecutors Office refuses to summon a witness, the court may order the summons at the request of the detainee. Articles 289 and 289a apply likewise.
4. If the case was brought before the court in the first instance, the detainee will be assigned a legal counsel by the court. The following provisions of Title II, Book 2 apply with regard to the counsel.

Article 638
1. The investigation and the decision take place in accordance with the provisions of Title IV of Book 5. Article 424 applies likewise.
2. In as far as the provisions referred to in paragraph 1 relate to a witness whose identity is not revealed, or is only partially revealed, these will not apply.

Article 639
If the court does not accept the identity, it will order the release. In the other case, the enforcement will be deemed to have commenced at the moment of the deprivation of liberty.

Article 640
1. The judgments containing decisions concerning the identity qualify for appeal to the extent that appeal was permitted against judgments handed down on the criminal offence.
2. The appeal will be subject to and will be handled in accordance with the ordinary rules. The investigation and the decision will take place in accordance with Title IV of Book 5.

Article 641
With regard to person who are detained in order to undergo any measure, this Section applies with the proviso that, if the identity is accepted, the measure will be applied.

Section 5
Method of notifying natural persons of judicial notices

Article 642
1. The notification of judicial notices to natural persons, as provided for in this Code and the Criminal Code, will take place by:
   a. service;
   b. dispatch;
   c. oral notification.
2. Service takes place through delivery of the judicial document in the manner provided for by statutory regulations.
3. Dispatch takes place in writing.
4. An oral notification will be recorded in a statement or by other means at the earliest opportunity.

Article 643
1. Service of judicial notices will take place only in the cases provided for by statutory regulations.
2. Summonses and subpoenas for which the Public Prosecutors Office is responsible will always be served.
3. In all cases in which a judicial notice must be served, the service takes place through delivery of a judicial document.
4. The delivery of the judicial documents referred to in paragraph 3 may be assigned by the Public Prosecutors Office to a bailiff or police officer or to an institution appointed by or pursuant to a national decree.
5. The delivery takes place:
   a. to the person who has been deprived of his liberty in the Kingdom in connection with the criminal proceedings to which the document to be delivered relates: in person;
   b. to all other persons: in person or, if service in person is not required and the document is presented in the Country, at their place of residence or accommodation and if they are not found at their place of residence or accommodation, to a member of their household or a person encountered in the property who declares himself willing to deliver the document to the person for whom it is intended without delay. 'Place of residence or accommodation' also refers to the address at which the person for whom the document is intended was registered in the personal records database on the date on which the document was offered and the address which the addressee reported to the Public Prosecutors Office as the address at which he wishes to receive judicial notices relating to him in the case.
6. If a judicial document is not accepted by the defendant, the refusal is deemed to be a delivery in person and the time of the refusal of the defendant qualifies as the time of delivery.
7. In the event that neither the person responsible for the service, nor the defendant, nor one of the members of his household or a person in the residential property who declares himself willing to deliver the document to the person for whom it is intended are found at his residential or accommodation address, or if the judicial document is not

accepted, he shall leave a written report behind at the location with the message that the judicial document is available for him at the offices of the Public Prosecutors Office and will immediately hand a copy of the judicial document to the public prosecutor at the Court of First Instance where the court for which the summons is issued sits. The public prosecutor will sign the original document as seen and if possible, will arrange to send the copy to the defendant without proof of the receipt of this by the defendant being required in law. The documents available as described above may be collected by the addressee or a representative authorised by him in writing. Delivery to a representative authorised by the addressee in writing qualifies as service in person.

8. If the defendant has no known residential or accommodation address in the Country, the service of the judicial documents will take place by attaching a copy of the judicial document to the building where the court to which the addressee is summoned sits.
9. If the defendant has a known place of accommodation in another Country within the Kingdom, the judicial document will be sent by the Public Prosecutors Office to the Public Prosecutors Office in that other Country for service. In the case of a known place of accommodation outside the Kingdom, the service will take place by dispatch of the notice by the Public Prosecutors Office either directly or through the intermediary of the competent authority or institution and, in as far as a treaty applies, in observation of that treaty.

Article 644
(no text)

Article 645
In the interests of good execution of Articles 642 and 643, further regulations may be imposed by or pursuant to a national decree containing general measures.

Article 646
1. A document will be drawn up for each delivery, as referred to in Article 643, stating:
   a. the authority which sends the judicial document;
   b. the number of the document;
   c. the person for whom the document is intended;
   d. the person to whom it was issued;
   e. the person who issued it;
   f. the location at which it was issued;
   g. the date and time at which it was issued.
2. Those who are not responsible for the delivery, each in as far as this concerns their findings and actions, at the location of those findings and actions in person will draw up the document truthfully and sign it immediately.
3. The model of the deed is established by the Public Prosecutors Office. It may impose further regulations in the interests of good execution of this Article.

Article 647
1. If the delivery has not taken place in accordance with the provisions of this Section, the court may declare the service to be null and void.

2. If the court finds that there are reasons to do so in the case of an absent defendant, it will order the suspension of the investigations with the obligation of the Public Prosecutors Office to nevertheless call the defendant in a manner to be determined by the court, on a different set date.

TITLE II
Costs

Section 1
Compensation for damage

Article 648

1. The former defendant or his heirs will be awarded compensation from the national treasury for the costs, in as far as the deployment of those costs serve the interests of the investigation or if these have become useless as a result of the withdrawal of summonses or legal remedies by the Public Prosecutors Office. Further rules in that regard may be imposed in a national decree, containing general measures.
2. The amount of the compensation will be fixed at the request of the former defendant or his heirs.
3. The foregoing applies likewise to the identification of convicts or other persons subject to judgments, handling of claims and appeals concerning enforcement and to the handling of complaints as referred to in Articles 150 to 151.

Article 649

1. If the case is closed without the imposition of a punishment or measure, but not if the former defendant is found guilty without the imposition of any punishment or measures, the former defendant or his heirs will be assigned reimbursement from the national treasury for his travel and accommodation expenses incurred for the investigation and the handling of the case, calculated on the basis of the provisions applying by of pursuant to a national decree containing general measures.
2. If the case is closed without the imposition of a punishment or measure, but not if the former defendant is found guilty without the imposition of any punishment or measures, the former defendant or his heirs will be assigned reimbursement from the national treasury for the damage that he suffers as a result of the failure to attribute to him the loss of time that he actually suffered through the preparatory investigation and the handling of the case at the hearing, as well as the costs for the legal counsel. Reimbursement for the costs of a legal counsel during the deprivation of liberty and the pre-trial detention are included in this. Compensation for these costs may also be awarded if the case is closed with the imposition of a punishment or measure pursuant to an offence for which pre-trial detention is not permitted.
3. Paragraphs 1 and 2 apply likewise for the parents of a defendant who is a minor and who are called up pursuant to Article 489(1).
4. Article 652(5) applies likewise.

Article 650

1. The costs of delivery or transfer of objects pursuant to an order of the examining judge or of the public prosecutor may be estimated by the

examining judge or the public prosecutor and reimbursed to the interested parties from the national treasury.
2. The interested party may be reimbursed from the national treasury for the costs of complying with a claim for the provision of data or of providing assistance for creating access to data pursuant to Articles 169, 177q, 177s, 177t and 177v.
3. The examining judge or the public prosecutor shall issue an enforcement order for that purpose.

Article 651

If an injured party has joined the proceedings, the court which will hand down a judgment as referred to in Article 375 or 380 will take the decision on the costs of the injured party, the defendant and, in the case referred to in Article 70g(4), incurred by his parents or guardian and still to be incurred for the enforcement.

Article 652

1. The person who has suffered damage as a result of unlawful application of a criminal coercive remedy, is entitled to compensation for damage. Compensation for damage may also be awarded with the lawful application of a coercive remedy in observance of paragraph 5.
2. The lawful or unlawful status is assessed in terms of the time at which the coercive remedy was applied.
3. 'Damage' is deemed to include the damage that does not consist of proprietary damage.
4. The damage suffered by the former defendant as a result of deprivation of liberty which he underwent outside the Country in connection with a request for extradition by the authorities also qualifies for compensation.
5. The determination of the compensation for damage takes place in accordance with the principles of reasonableness and fairness, taking all circumstances into account. In particular, the extent to which the application of the coercive remedy is attributable to the victim himself is taken into account. In the event of damage that does not constitute proprietary damage, the living conditions of the injured party can also be taken into account in the determination of the amount.
6. If the court decides to award compensation for damage, the amount to be paid out will be settled with financial penalties and other sums of money owed to the Country which the former defendant has been ordered to pay by a decision in criminal proceedings that has become final, in as far as the defendant has not yet settled these amounts.
7. Instead of awarding compensation for damage, the court may decide that the days which the former defendant spent in detention on the grounds of a custody order and pre-trial detention order will be deducted, partially or in full, in the enforcement of a final custodial sentence imposed on other grounds.

Section 2
Procedure

Article 653

1. The request for compensation of costs and damage may be filed only within three months of the applicant becoming aware of the closure of the case. This term does not apply for injured third parties.
2. The Court of First Instance is competent to make the award.

3. The handling of the request by the Council Chamber takes place in public unless the court decides otherwise.
4. A request for reimbursement of costs and compensation for damage may also be submitted by the heirs of the victim and the compensation can also be awarded to them. In that case, compensation for damage that does not consist of proprietary damage will not take place. If the victim dies after submitting his request or after filing an appeal, the award will be made to his heirs.

Article 654

1. The public prosecutor may file an appeal with the Court of Justice within 14 days of the decision taken by the court and the victim or his heirs may do so 14 days after the service of the decision.
2. Articles 443 to 452 apply likewise.

Article 655

1. An enforcement order for the amount of the compensation for costs and damage will be issued by the presiding judge in the court of first instance or if the Court of Justice awards the compensation, by the head of the bench.
2. Payment will take place from the national treasury.

Article 656

Those who have suffered damage due to criminal law action against them may only claim compensation for damage pursuant to the provisions of this Title, with the exclusion of any claim under civil law.

TITLE III
Final provision

Article 657

The date on which this national ordinance enters into force will be established in a national ordinance in which the entry into force and transfer rights of this national ordinance will also be regulated

Article 658

This national ordinance will be referred to as the Code of Criminal Procedure.

Issued in Philipsburg,

The Governor of Sint Maarten

The Minister of Justice
dated