

# Criminal Procedure Code

Number 23 -1971

- E. The investigator shall be appointed by order from the Minister of Justice, provided he possesses a recognized qualification in law. Police officers and their authorized agents and legal officers of the Ministry of Justice may be granted the powers of an investigator by order from the Minister of Justice.
- F. No investigator may perform the functions of his office for the first time unless he has sworn the following oath before the President of the Court of Appeal:

"I swear by Almighty God that I shall perform the functions of my office with justice and shall apply the law faithfully"

#### Paragraph 52

- A. The examining magistrate shall conduct the investigation into all offences in person or by means of investigators. He may authorize any investigating officer to carry out any particular action on his behalf.
- B. The scene of the incident shall be examined by the investigator or magistrate so that he may take the action specified in paragraph 43, record the nature of any material trace or evidence of the offence and of the injury sustained by the victim, note the apparent cause of any death that has occurred and arrange for a sketch-map of the scene of the incident to be made.
- C. If the examining magistrate is notified of an offence that has occurred in the presence of witnesses he must, whenever possible and without delay, go to the scene of the incident in order that he may take the action specified in subparagraph B and notify the public prosecutor's office accordingly.

#### Paragraph 53

- A. The legal jurisdiction of the investigation shall be determined by the place where the whole of the offence or part of it or an act supplementary to it was committed, or where the result consequent upon it occurred, or where an act that forms part of a composite, ongoing serial, or customary, offence was committed. It may also be determined at the place where the victim was situated or where money in respect of which the offence was committed was found after having been conveyed there by the offender or by a person cognisant of the offence.
- B. If the offence took place outside Iraq the investigation into it shall be conducted by an examining magistrate appointed for the purpose by the Minister of Justice.
- C. If it is evident to the examining magistrate that the offence to be investigated is outside his area of competence then he may refer the papers on the case to an examining magistrate who is competent under the provisions or subparagraph A.
- D. If the examining magistrate to whom the papers on the case are referred considers that he is not competent to investigate the offence he must submit the matter to the Court of Cassation, stating the grounds upon which the Court should issue a decree appointing an examining magistrate with the requisite competence as a matter of urgency. He himself must continue with the investigation until such time as the Court of Cassation decides the matter.

- E. Measures and decisions by the examining magistrate shall not be invalid by virtue of their having been taken contrary to the provisions of sub-paragraph A.

#### Paragraph 54

- A. If a complaint or allegation against a suspect is lodged with two or more of the competent authorities investigating the offence, the papers on the case must be passed to the authority with which the complaint or allegation was lodged first.
- B. If there are several suspects for an offence and a complaint or allegation against some of them has been lodged with one competent investigating authority and against others with another such authority, the papers on the case must be passed in the authority with which the complaint or allegation was lodged first.

#### Paragraph 55

- A. If there is a conflict of jurisdiction between two or more investigative authorities, the conflict shall be referred to the Court of Cassation, which shall issue a decree appointing the competent authority.
- B. It is permissible for the case to be moved from the jurisdiction of one examining magistrate to the jurisdiction of another examining magistrate by order of the Minister of Justice or by a decision by the Court of Cassation or the Criminal Court with its area if the security situation requires it or if the transfer would help to establish the truth.

#### Paragraph 56

- A. The examining magistrate may move to any other place within his area or jurisdiction to conduct any part of his investigation, if such a move is required in the interest of the investigation, he may move to any place outside his area of jurisdiction if the exigencies of the investigation so require. In this case he shall have powers of apprehension, arrest and search, and authority to hear witnesses, to question suspects and persons connected with the incident under investigation and to release persons with or without bail, provided that he notifies the examining magistrate or the district of the measures he has taken in that district.
- B. If there is a need to conduct part of the investigation in an area outside the magistrate's area of jurisdiction he may authorize the examining magistrate of that area to conduct that part of the investigation on his behalf, provided that the matters he wishes to be investigated are specified in the decree authorizing that examining magistrate to act on his behalf.
- C. The magistrate so authorized may, if he fears that there is a shortage of time, take any action related to the matter in which he has been deputed to act or which he considers necessary to establish the truth.

#### Paragraph 57