

TITLE VII

Remand in police custody

Article 83

1. The public prosecutor or the assistant public prosecutor before whom the suspect appears or who has arrested or heard the suspect may, after hearing the suspect, order in the interests of the investigation that the suspect remain available to the criminal justice authorities during the investigation and for this purpose be remanded in custody at a location named in the order.
2. The public prosecutor or the assistant public prosecutor must hear the suspect before the order is issued. The suspect must be informed that he will be assigned counsel free of charge from the time when the order for remand in police custody is made and throughout the period it is in force.
3. The fact that a hearing has taken place before the public prosecutor or assistant public prosecutor must be noted in the official report of the hearing.
4. If it is the assistant public prosecutor who has made the order, he must inform the public prosecutor of this either orally or in writing as soon as possible, but in any event within 24 hours.
5. The public prosecutor must order the release of the suspect as soon as the interests of the investigation allow. If the assistant public prosecutor has issued the order, he also has the authority to release the suspect within the first 24 hours.
6. If the assistant public prosecutor does not order the release of the suspect, he must bring the suspect before the public prosecutor, unless the latter has decided otherwise.

Article 87

1. An order for remand in police custody is valid for a maximum of two days.

2. If urgently necessary in the interests of the investigation, the public prosecutor may extend remand in police custody once for a maximum of eight days. The public prosecutor must hear the suspect before he is brought before the examining magistrate in accordance with article 89.

## TITLE VIII

### Pre-trial detention

#### PART ONE

### Remand in custody

#### Article 92

1. On the application of the public prosecutor, the examining magistrate may issue an order for the suspect's remand in custody. The clerk of the court must notify counsel for the suspect immediately, either orally or in writing, and must at the same time inform counsel, the public prosecutor and the assistant public prosecutor of the location and, if possible, the time at which the suspect is to be heard by the examining magistrate.

2. If the examining magistrate is of the opinion that there are no grounds for making such an order, he must deny the application.

3. If the examining magistrate is not of that opinion, he must hear the suspect with regard to the public prosecutor's application before making a decision, and for that purpose he may order that the suspect be served with a notice of summons and accusation, and if necessary with a subpoena. If it is impossible to wait until the suspect has been heard before issuing the notice of summons, he must be heard as soon as possible afterwards.

#### Article 93

1. The order for remand in custody is valid for a period not exceeding eight days to be determined by the examining magistrate and commencing as soon as the order is enforced.

2. On the application of the public prosecutor, the examining magistrate may extend the order for remand in custody once for a period not exceeding eight days.

#### Article 98

1. An arrest warrant or court order for detention is valid for a period not exceeding 60 days to be determined by the court and commencing as soon as the warrant or order is enforced.

2. If the warrant or order is issued at trial or if the examination at trial begins within the period laid down in paragraph 1, the warrant or order remains valid for an indefinite period and until it is lifted.

3. The period for which the warrant or order is valid may be extended once for a period not exceeding 30 days by the examining magistrate on the application of the public prosecutor before the examination at trial begins.

4. If application has been made for a preliminary judicial investigation and if, due to exceptional circumstances relating to the case, this investigation is not completed within 90 days of the court order for detention being enforced, the examining magistrate may, on the application of the public prosecutor in the cases and on the grounds listed in articles 100 and 101, extend the order once more for a period not exceeding 30 days.

5. The suspect must be given the opportunity to express his views on every application made pursuant to this article.

6. Paragraphs 1 and 2 apply *mutatis mutandis* to orders for extensions made under paragraphs 3 and 4.

## PART FOUR

### Grounds for pre-trial detention

#### Article 101

3. An order for pre-trial detention must not be made if serious account has to be taken of the possibility that, in the event of conviction, the suspect will not receive a non-suspended custodial sentence or a non-punitive order depriving him of his liberty, or if the enforcement of the order for pre-trial detention means that he would be lawfully deprived of his liberty for longer than the duration of the sentence or non-punitive order.