



INFANTE & PÉREZ ALMILLANO
ABOGADOS / ATTORNEYS AT LAW

**CRIMINAL ACCUSATORY SYSTEM:
A MILESTONE IN THE HISTORY OF THE JUDICIAL SYSTEM IN PANAMA**

Lic. Jose De La Cruz Bernal
Lawyer
bernal@inperib.com

Criminal justice in the Republic of Panama is proud of the enforceability of the Criminal Accusatory System, which in my concept constitutes a historical and momentous fact for the benefit of the administration of justice in our country, although it is necessary to admit that its enforceability turned out to be steamed up with some well-known delays, as Budget and others typical of the current government, it is enough to remember that the first obstacle for its implementation was the sanction of the law 48 of 2009, that postponed its enforceability until September 2, 2011 and whose functioning was limited only for the Second Judicial District that includes the provinces of Coclé and Veraguas.

This system eminently of court, finishes the inquisitive system which is in agony on its last years exhausted, collapsed and at the edge of its own destruction, nevertheless, our country together with Uruguay and Cuba are the last countries of the region to adopt it, which must be completely functioning in the whole national territory on September, 2014, since on 2012 it will initiate in the provinces of Herrera and Los Santos.

The Panamanian society wonders if the current criminal accusatory system is going to solve the already known problems of penal justice, the overcrowding of jails, the judicial mulberry, the corrupt officers, the judicial concubine and others created at the margin of the own system, well, the success of the current system depends of a multiplicity of factors mainly on human conduct, principles and values. It is necessary to demand to the current officers a change of mentality, since it turns out to me absurd and incomprehensible that the current judicial officers are the same managers of the new system, in countries as Chile the human factor was completely recycled.

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Although I insist that the change was necessary for the new criminal system, it is not an impediment to make judgments a priori as it is done by the ones who challenged it, therefore we cannot incur in the error of predicting that it goes to be defeated because opposite to the countries of Anglo-Saxon tradition, where the



Calle 50 y 74 San Francisco, PH 909
Apartado Postal 0830-00142, Zona 9, Panamá, República de Panamá
Tel: (507) 322-2121 Fax: (507)322-2212
info@inperib.com www.inperib.com

criminal accusatory system has always been applied, in Panama on the other hand, it begins to apply but staggered up to culminate in the province of Panama in the year 2014. It is fair to give a margin of time to extract our own conclusions regarding the benefits or damages of the new system; nevertheless it is known that any change brings with it a natural resistance of the human being.

The Criminal Accusatory System represents a change in the model of judgment, for a more dynamic process that allows the person who is deprived of freedom (detainee) to receive a quicker, public and transparent judgment. This means, the fundamental intention is to diminish overcrowding of jails of those that suffer a provisional detention of over a year and without the celebration of the respective hearing.

Those who thought that from the last September 2, deprived of freedom in the different jails of the country with more than a year of provisional detention were supposed to go out of the jails immediately were wrong, since recently the Law 66 of September 1, 2011 was approved, which modifies the article 557 of the new Code that establishes the following: ***“...The application of the dispositions contained in the second paragraph of the article 12 and in the last paragraph of the article 237 of this Code, which will enter in force on September 2, 2014 are excluded from this article.”***

From now on the decisions that limit freedom of imputed persons must be adopted by a judge and not by district attorneys as the previous system establishes it. The abuse of authority of the agents of the Public Department, who in many occasions in powerful and excessive aptitude ordered detainees by mere caprice, is finished.

Another innovation of the System is the elimination of records, huge volumes, papers, etc. The article 371 of the new Code, establishes that allegations of oral judgment do not have to exceed an hour; the 2nd paragraph of this regulation arranges that writs or exact textbooks cannot be read, without detriment of the partial reading of notes.

Immediacy and orality principles are fundamental basis of the system, where we can mention that the outrages of the District attorneys who maintain an investigation in their offices indefinitely so pretext of the practice of nonexistent tests were finished, now the Public Department cannot realize jurisdictional acts, not even the Judge can realize acts that imply investigation or exercise of the criminal action (art. 5).



Procedural acts will be oral, debated matters will be solved in the same hearing, and the presents will be notified by the oral pronouncement of the judicial decision (art. 128). Judges will deliberate in the maximum space of 24 hours (art. 424). In cases of personal freedom or precautionary measures, the Judge has the obligation to decide in the established term, otherwise, the imputed has right to request an immediate decision or in 48 hours. If it is not done, the hierarchic Chief of this judge will have to declare freedom automatically (art. 151).

To conclude, it is indisputable that the success of the current Criminal Accusatory System will depend mainly on the political will of the government, when to support the system they do not spare efforts to provide budgets to the Judicial Organ necessary for the fulfillment of its purposes, and that the Judges' and personnel's appointment turns into the voraciousness of those who direct destinations of the institution.

