

Criminal Procedure

Dr. Nadine Zurkinden

Criminal Procedure

- Title 1 Scope of Application and Principles
- Title 2 Criminal Justice Authorities
- Title 3 Parties
- Title 4 Evidence
- Title 5 Compulsory Measures
- Title 6 Preliminary Proceedings
- Title 7 Main Proceedings of First Instance
- Title 8 Special Procedures
- Title 9 Appellate Remedies
- Title 10 Procedural Costs
- Title 11 Legal Effect and Execution of Decisions
- Title 12 Final Provisions

Swiss Criminal Procedure Code

(Criminal Procedure Code, CrimPC)

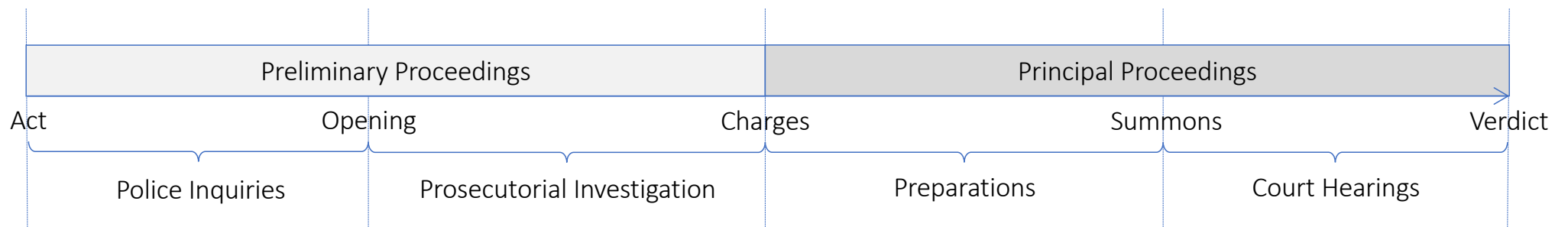
of 5 October 2007 (Status as of 1 March 2019).

The Federal Assembly of the Swiss Confederation,

on the basis of Article 123 paragraph 1 of the Federal Constitution¹, and
having considered the Federal Council Dispatch dated 21 December 2005

decrees:

Criminal Procedure



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decrees:

Art. 7 – Obligation to prosecute

1 The criminal justice authorities are obliged to commence and conduct proceedings that fall within their jurisdiction where they are aware of or have grounds for suspecting that an offence has been committed.

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Criminal Procedure

The prosecution authorities are:

- a. the police;
- b. the public prosecutor;
- c. ...

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Police

- Secure evidence
- Find suspects
- Examination hearings

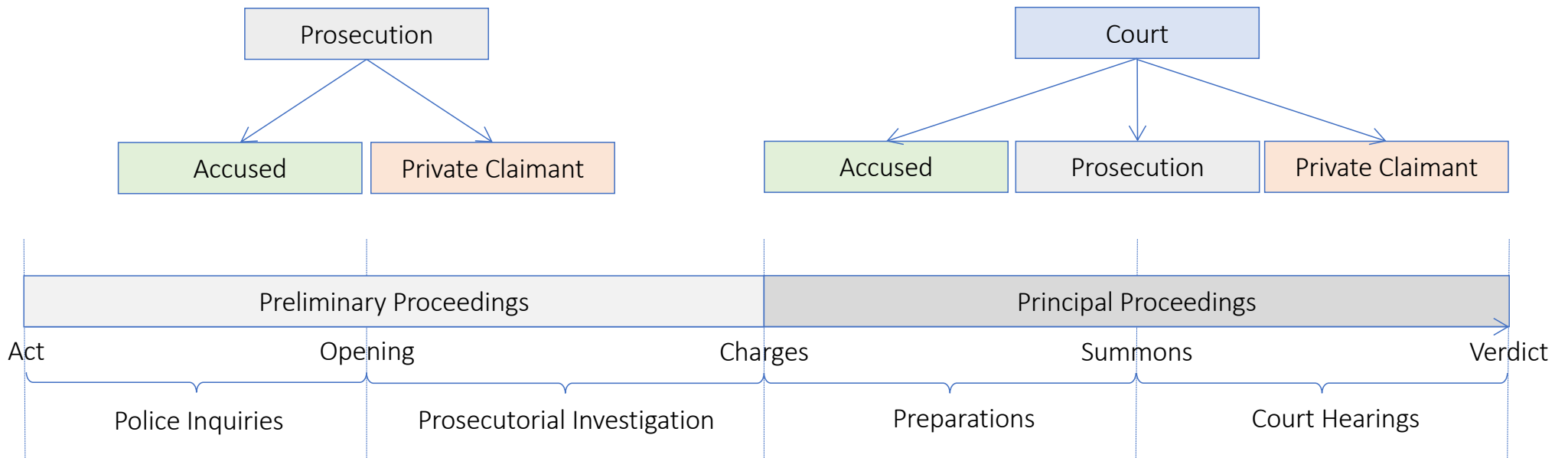


Public Prosecutor

- Formal head of the investigation (Art. 16)
- Becomes party to the trial proceedings once the charges are brought before court (Art. 104 I c)



Swiss Criminal Procedure



Art. 13 – Courts

The following bodies have judicial powers in criminal proceedings:

- Complaints Authority
- Coercive Measures Court
- Court of First Instance
- Court of Appeal

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decrees:

Art. 104 – Parties

1 Parties are:

- a. the accused;
- b. the private claimant;
- c. in the main hearing and in appellate proceedings: the public prosecutor.

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Art. 104 – Parties

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decrees:

Art. 104 – Parties

- the accused is a person suspected, accused of or charged with an offence (Art. 111)
- Party in the Criminal Proceedings (Art. 104 I)
- Nemo tenetur (Art. 113 I)



Art. 104 – Parties

1 Parties are:

- a. the accused;
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Art. 115 – The aggrieved person

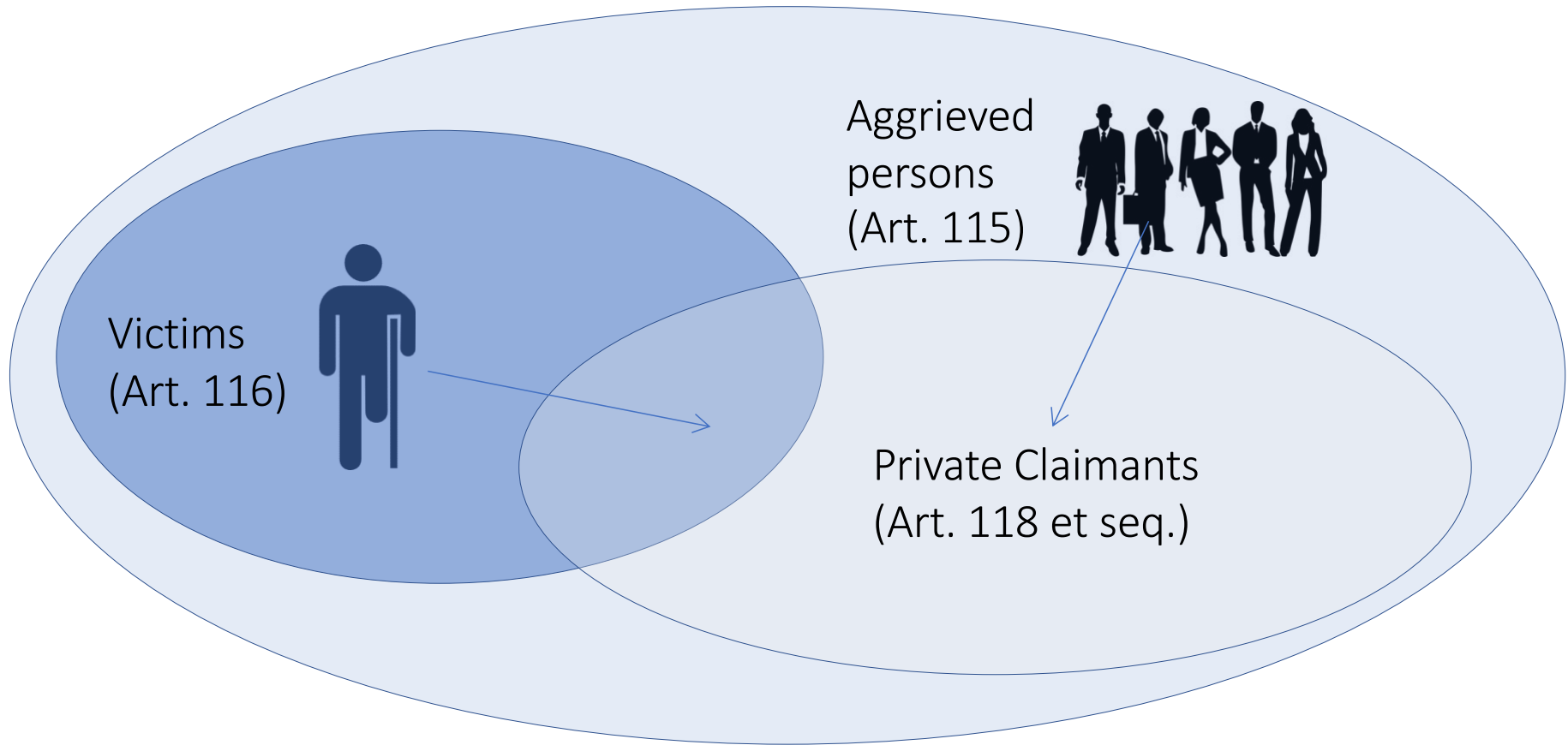
An aggrieved person is a person whose rights have been directly violated by the criminal offence.



Art. 116 – The victim

- Victim is a person who suffered physical, sexual or mental harm from an offence (Art. 116)
- Status: Special protection and rights under the Federal Act on Support to Victims of Crime (2007)
- Special rights that apply only to «victims» and not «aggrieved persons»





Victims
(Art. 116)



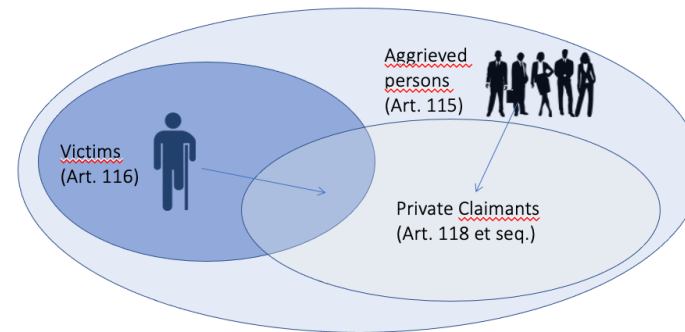
Aggrieved
persons
(Art. 115)



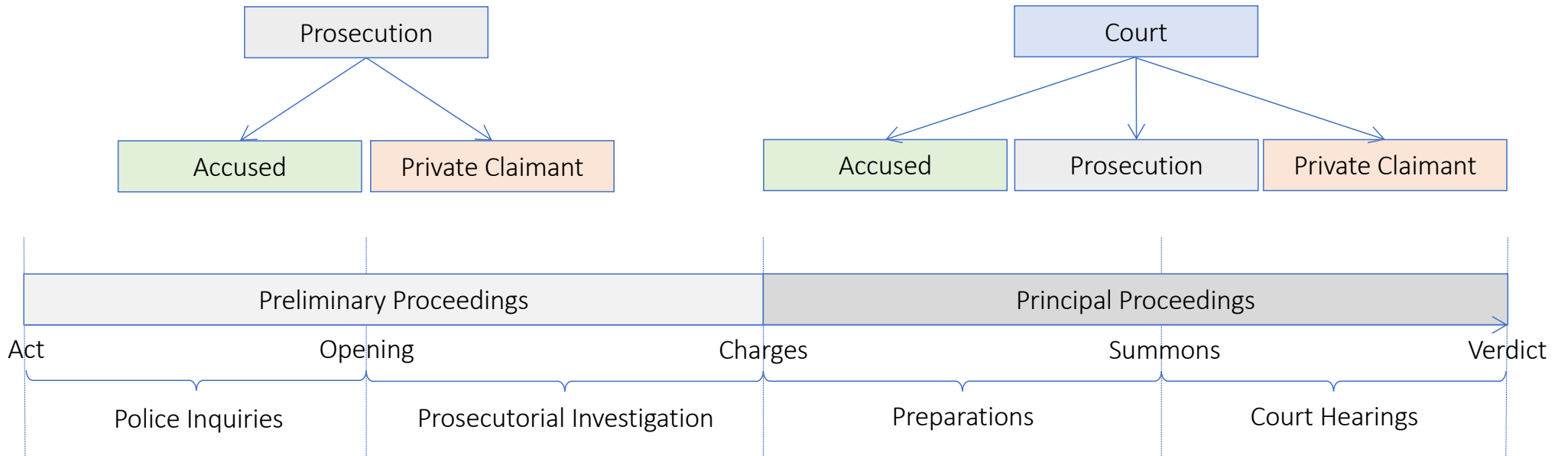
Private Claimants
(Art. 118 et seq.)

Art. 118 et seq. – Private claimants

- Be present at hearing of accused
- See evidence
- Plead to charges
- Demand compensation



Parties



Art. 127 – Legal Advisors

The accused, the private claimant and the other people involved in the proceedings may appoint a legal advisor to safeguard their interests.

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decrees:

Art. 158 – Cautioning

1 The police or prosecution shall inform the accused that :

- a. preliminary proceedings have been instituted...
- b. that he/she may refuse to make statements or to participate
- c. that he/she is entitled to appoint defence counsel or where appropriate to request a legal aid defence counsel;
- d. that he/she may request an interpreter.

2 Examination hearings which take place despite the fact that this information was not first provided shall not be used.

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The Federal Assembly of the Swiss Confederation,

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decrees:

Art. 130 – Mandatory appointment of a defence lawyer

A defence lawyer must be appointed to represent the accused if:

- a. detention on remand more than 10 days;
- b. custodial sentence of more than a year or expulsion from Switzerland;
- c. the accused is unable to safeguard his or her interests
- d. the prosecuting lawyer is appearing in person before the court;
- e. accelerated proceedings (Art. 358–362) .

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decrees:

Art. 131 – Appointment of the mandatory defence lawyer

1 Where the mandatory appointment of a defence lawyer is required, the head of proceedings shall ensure that a defence lawyer is appointed immediately.

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Art. 132 – Legal aid defence counsel

- 1 The person in charge of the proceedings shall grant legal aid if:
- a. in a case involving the mandatory appointment of defence counsel
 - b. the accused does not have sufficient funds and defence counsel is necessary to safeguard his or her interests.

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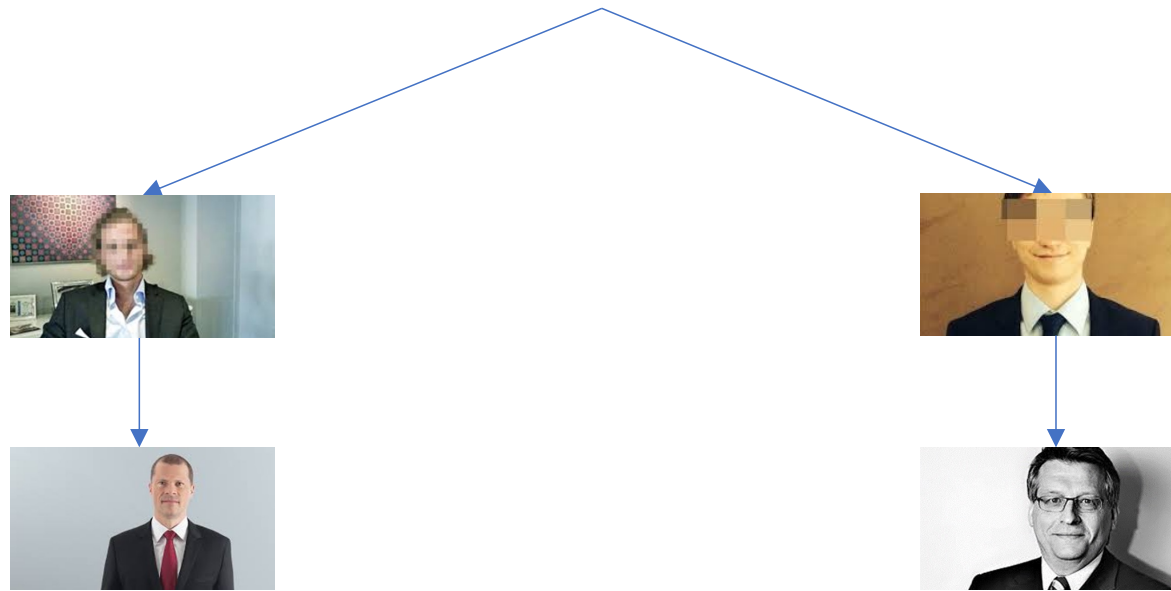
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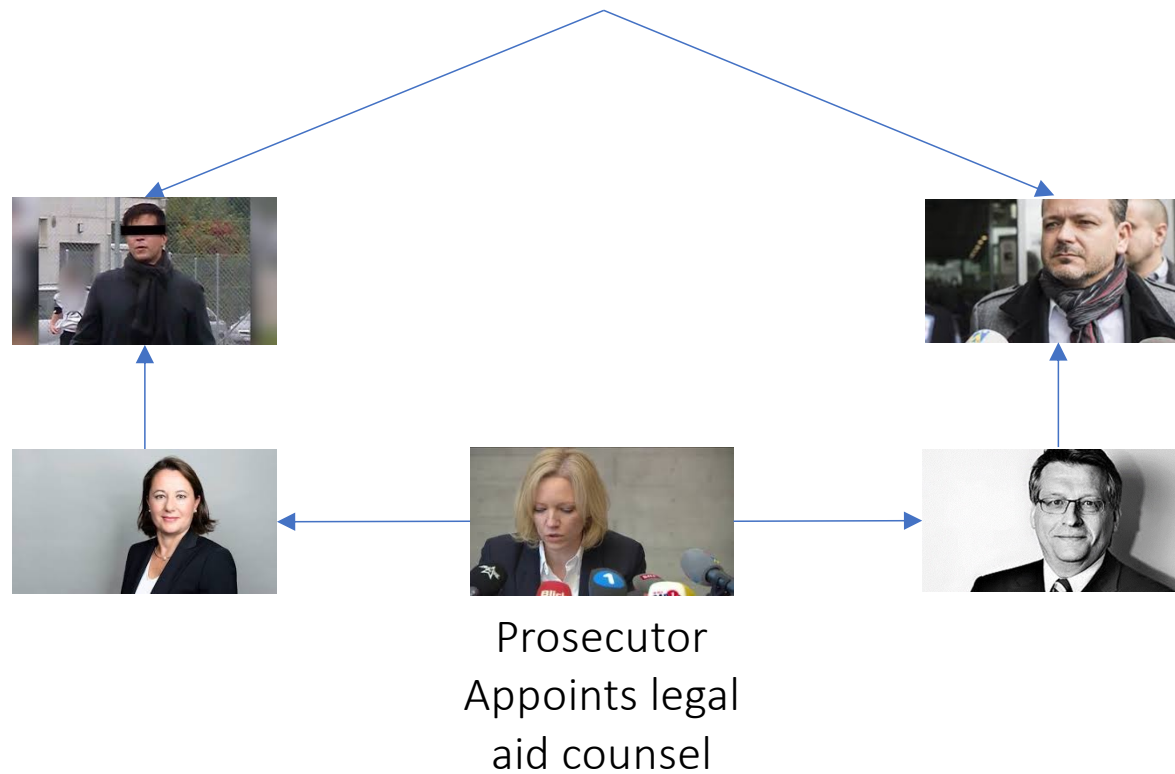
Legal Advisors



Accused appoints
Defence counsel
(Art. 128/129)

Victim/family appoints
legal counsel
(Art. 128/129)

Legal aid (defence) counsel



Art. 131 – Appointment of the mandatory defence lawyer

1 Where the mandatory appointment of a defence lawyer is required, the head of proceedings shall ensure that a defence lawyer is appointed immediately.

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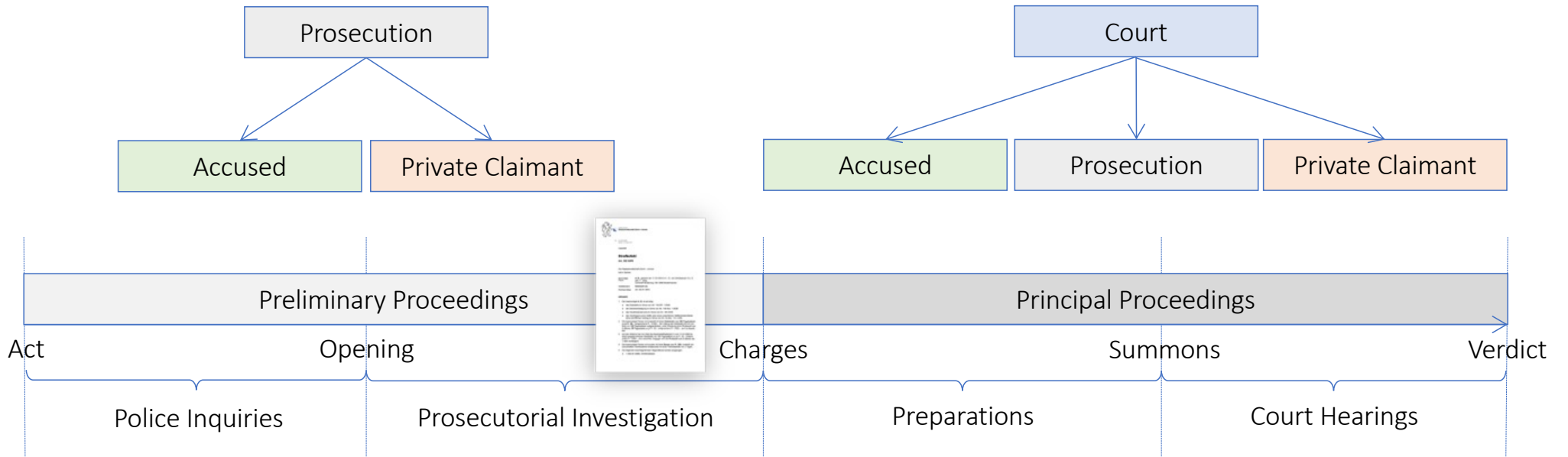
decrees:

Court of First Instance – Title 7 CrimPC

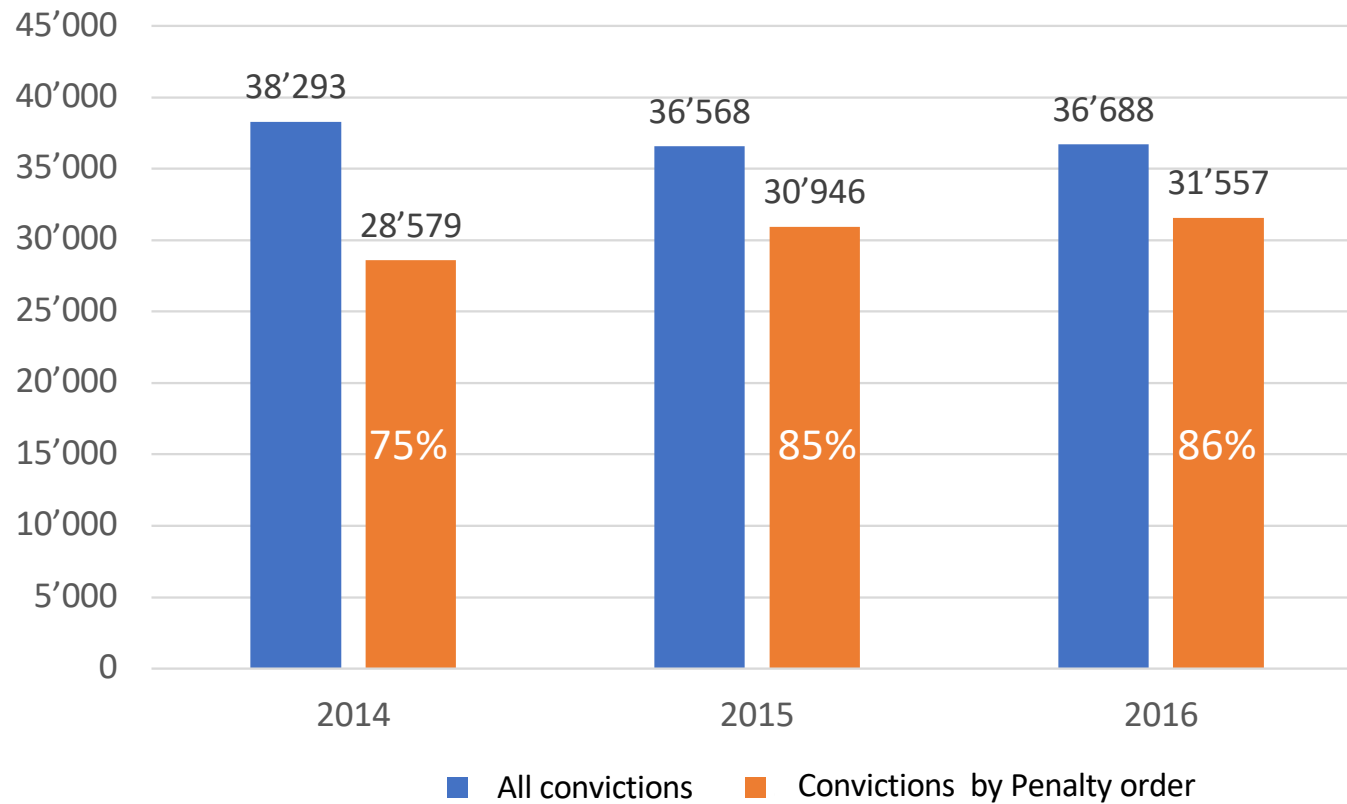
- Head of the main Court hearings
- Coercive measures (detention on remand, secret surveillance, undercover agents...)



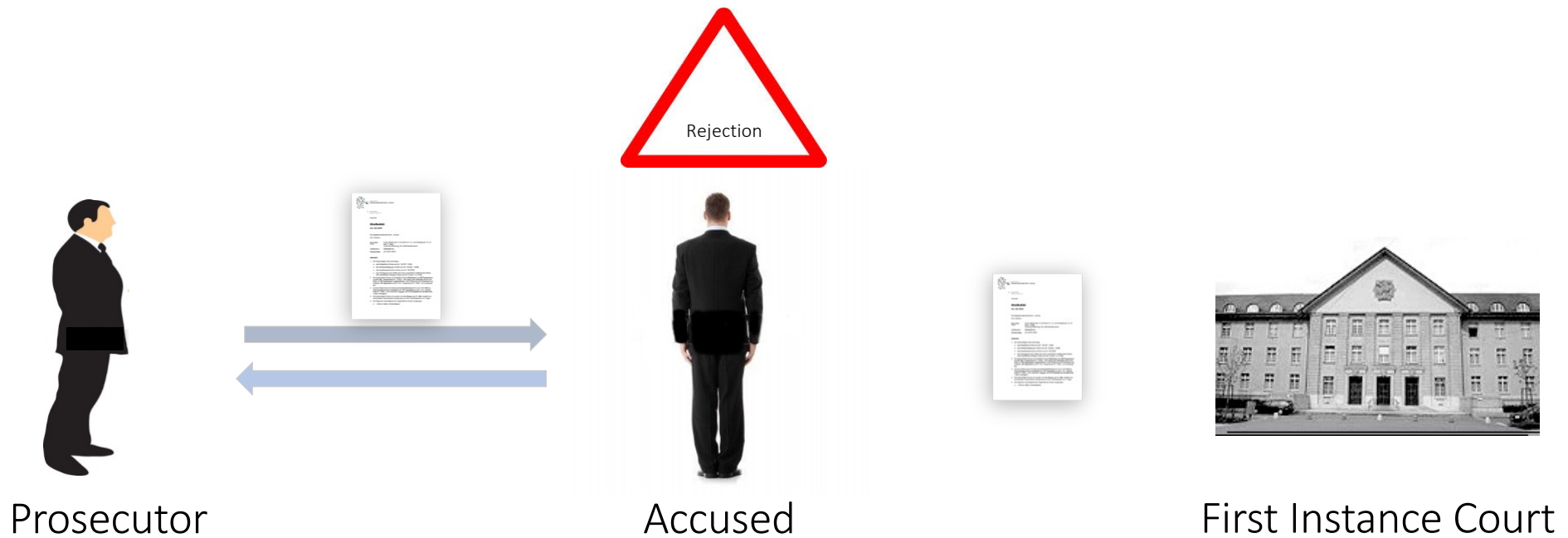
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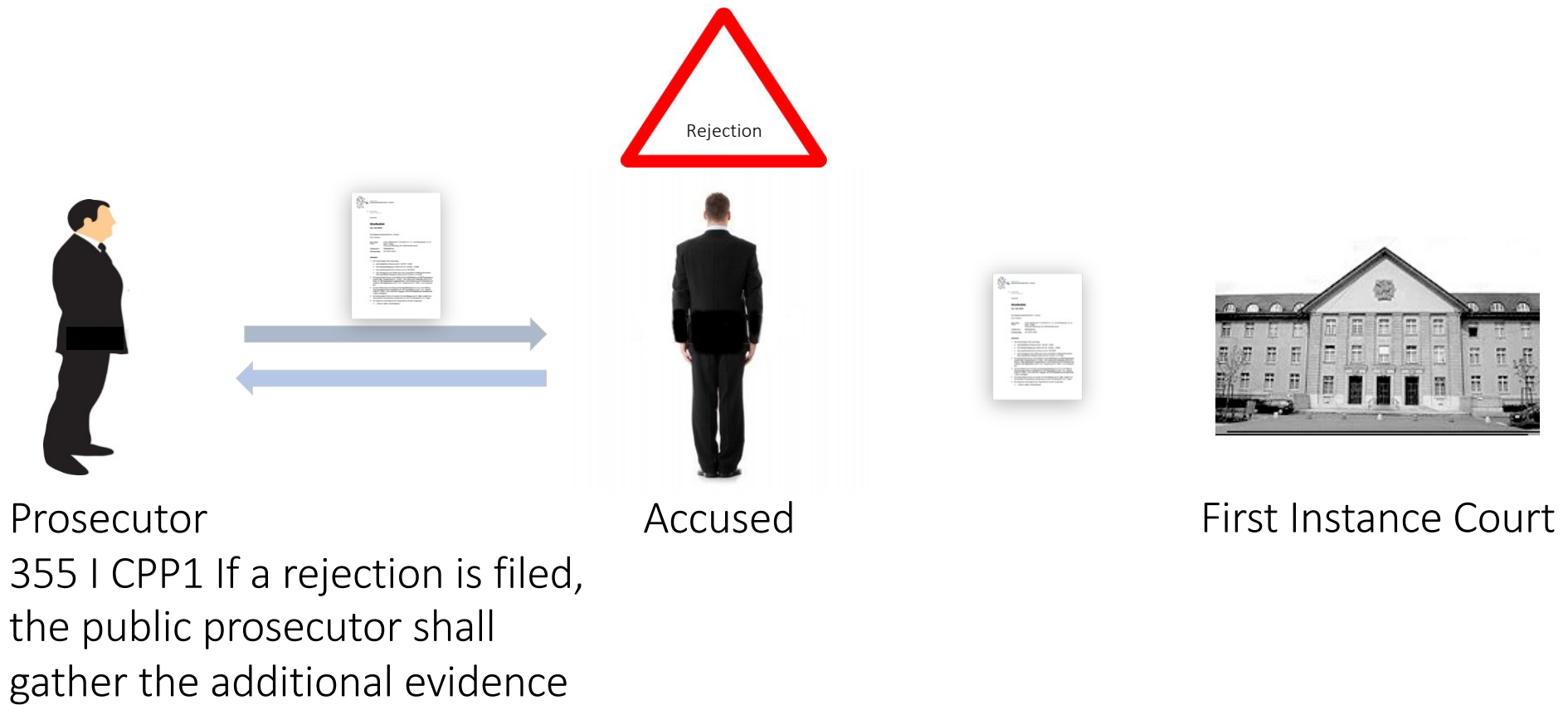
Convictions by Penalty order for felonies/misdemeanours of CC



Summary Penalty Order (Art. 352 ff. CCP)



Summary Penalty Order (Art. 352 ff. CCP)



Art. 355 CPP – Objection procedure

Prosecutor decides

- a. Uphold penalty order
- b. Abandon proceedings
- c. Issue new penalty order
- d. Bring charges at court

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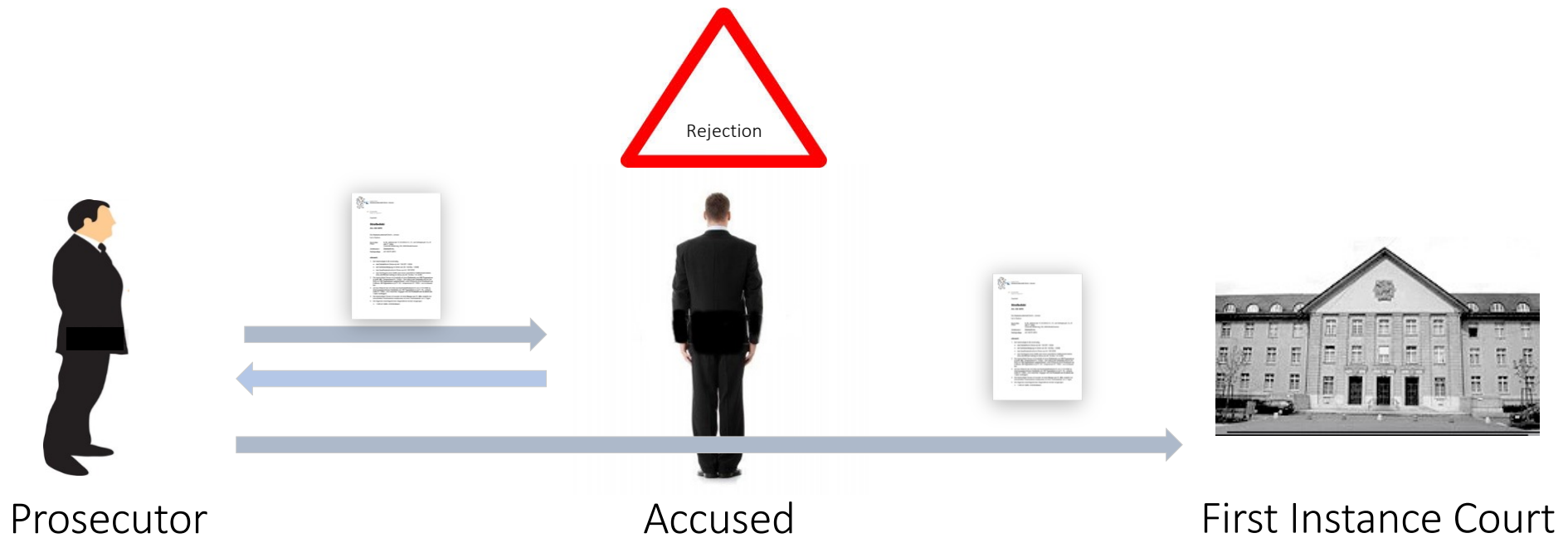
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Summary Penalty Order (Art. 352 ff. CCP)



III. Summary

Criminal Procedure

