

## **ARTICLE 13**

*"Personal liberty is inviolable. No form of detention, inspection or personal search nor any other restriction on personal freedom is admitted, except by a justified act issued by the judicial authority and only in the cases and manner required by law. In exceptional cases of necessity and urgency, strictly defined by the law, the authority of public security may adopt temporary measures, which must be communicated to the judicial authorities within forty-eight hours, if it doesn't confirm them in the following forty-eight hours, they are considered revoked and remain ineffective. All acts of physical or moral violence against individuals subject in any way to limitations of freedom shall be punished. The law establishes the maximum period of preventive detention."*

### **Subparagraph 01: "Personal liberty is inviolable".**

Personal liberty's right is the most important between inviolable rights and is recognized both to citizens, foreigners and stateless persons inasmuch is the same for everyone, regardless of nationality and any other discrimination factor.

### **Subparagraph 02: "No form of detention, inspection or personal search nor any other restriction on personal freedom is admitted, except by a justified act issued by the judicial authority and only in the cases and manner required by law."**

In this clause is sanctioned the right of the individual not to be subjected to limitations, physical restrictions and detentions, especially towards potential abuses from the public authorities. Furthermore, we can identify three fundamental guarantees:

- Unconditioned statutory reserve:

Only an ordinary law can discipline cases in limitation of personal liberty.

- Jurisdiction reserve:

Only judges can deliberate restrictive measures of personal liberty.

- Duty of motivation:

It must always necessarily combine with each jurisdictional measure that restricts personal liberty. The above-mentioned duty constitutes an important guarantee, inasmuch it imposes on the judge to indicate expressly the facts that justified the acceptance of the restrictive measure, to demonstrate that he applied and respected the law.

### **Subparagraph 03: "in exceptional cases of necessity and urgency, strictly defined by the law, the authority of public security may adopt temporary**

**measures, which must be communicated to the judicial authority within 48 hours and, if it doesn't confirm them in the following 48 hours, they are considered revoked and remain ineffective.”**

Is enshrined that in cases of necessity, suggested by the law, the authority could use temporary measures which are communicated to the judicial authority in 48 hours, if they aren't transmitted within the following 2 days, the measures will be rejected.

**Subparagraph 04: “Every act of physical and moral violence inflicted against individuals subjects in any way to limitation of freedom will be punished.”**

Any violence (physical or moral) against every single person deprived of personal liberty will be punished.

**Subparagraph 05: “The law establishes the maximum limit of preventive detention.”**

Is enshrined that the law establishes the maximum limit of how much a single man, waiting to be judged , could remain without is personal freedom.