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## Code of Misdemeanour Procedure

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## Chapter 1

### FUNDAMENTAL PROVISIONS

#### § 1. Scope of application of Code

This Code provides for the extra-judicial and court procedure for misdemeanours and for execution of the punishments imposed for misdemeanours.

#### § 2. Application of provisions concerning criminal procedure

Unless otherwise provided for in this Code, the provisions concerning criminal procedure apply to misdemeanour proceedings, taking into account the specifications arising from misdemeanour proceedings.

#### § 3. Applicability of law on misdemeanour procedure by reason of person concerned

(1) The law on misdemeanour procedure is applicable to natural and legal persons. Written caution procedure is also applicable to the state, local governments and legal persons in public law.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(2) To persons enjoying diplomatic immunity or priorities prescribed by an international agreement, Estonian law on misdemeanour procedure may be applied at the request of a foreign country, taking into account the specifications provided by the international agreement.  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

### **§ 3<sup>1</sup>. Principle of mandatory misdemeanour proceedings**

(1) If elements of a misdemeanour become evident, a body conducting extra-judicial proceedings is required to commence and conduct misdemeanour proceedings, unless the act is of minor importance in the opinion of the body conducting extra-judicial proceedings or unless the circumstances which would preclude misdemeanour procedure pursuant to § 29 of this Code exist.

(2) In the case of a minor misdemeanour, misdemeanour proceedings need not be commenced and it is sufficient to orally caution the person who committed an act with elements of misdemeanour.

(3) In the case of a minor misdemeanour, misdemeanour proceedings need not be commenced if identification of the person who committed the misdemeanour is unlikely or if conduct of proceedings would be unreasonably expensive taking into consideration the circumstances of the misdemeanour.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(4) A misdemeanour is not of minor importance if damage was caused by commission of misdemeanour or if the notice concerning misdemeanour referred to any damage caused, except in the case the person who committed the misdemeanour has voluntarily compensated for or remedied the damage caused by the misdemeanour.  
[RT I, 05.12.2017, 1 - entry into force 15.12.2017]

### **§ 4. Presumption of innocence**

No one shall be presumed guilty of a misdemeanour before the decision concerning punishment for the misdemeanour has entered into force with regard to the person.

### **§ 5. Safeguarding of rights of participants in proceedings**

The bodies conducting extra-judicial proceedings and the courts shall:

- 1) explain the purpose of the procedural acts performed and the rights and obligations of the participants in the proceedings to the participants;
- 2) provide the person subject to proceedings with the opportunity to defend himself or herself personally;
- 3) provide the counsel of the person subject to proceedings with the opportunity to participate in the proceedings on the bases and pursuant to the procedure prescribed in subsections 19 (2) and (3) and 22 (1) and (2) of this Code.

### **§ 6. Respect for human dignity**

A body conducting the proceedings shall not defame or degrade the human dignity of the participants in the proceedings.

### **§ 7. Compensation for damage caused by misdemeanour**

Compensation for the damage caused by the commission of a misdemeanour shall be decided on the bases and pursuant to the procedure provided by civil law.

## **Chapter 2**

# **BODIES CONDUCTING PROCEEDINGS, PARTICIPANTS IN PROCEEDINGS, EXPERTS, INTERPRETERS OR TRANSLATORS AND PARTIES TO COURT PROCEEDINGS IN MISDEMEANOUR PROCEDURE**

## **Division 1**

# Bodies Conducting Misdemeanour Proceedings

## § 8. Bodies conducting proceedings

Proceedings shall be conducted:

- 1) in the case of extra-judicial proceedings, by a body conducting extra-judicial proceedings;
- 2) in the case of court proceedings, by a court.

## § 9. Bodies conducting extra-judicial proceedings

In the cases provided by law, extra-judicial proceedings shall be conducted by:

- 1) agencies with the authority of executive power;
- 2) rural municipality and city governments.

(3) [repealed - RT III 2008, 24, 159 - entry into force 16.05.2008]

## § 10. Official of body conducting extra-judicial proceedings

(1) A body conducting extra-judicial proceedings shall participate in the proceedings through its official.

(2) A body conducting extra-judicial proceedings shall approve a list of the positions the officials at which are competent to participate in misdemeanour proceedings in the name of the body conducting extra-judicial proceedings. If necessary, positions may be differentiated in the list on the basis of the competence of imposition of the punishment.

[RT I 2005, 40, 311 - entry into force 01.10.2005]

(2<sup>1</sup>) The head of the body conducting extra-judicial proceedings may give general instructions in order to ensure the legality and efficacy of extra-judicial proceedings in the area of jurisdiction of the body conducting extra-judicial proceedings.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(3) A body conducting extra-judicial proceedings shall issue a certificate of competence to the officials. The certificate shall set out the title, number and date of the legal act on which the competence of the official is based.

(3<sup>1</sup>) If an official of a body conducting extra-judicial proceedings is a police officer, his or her competence is certified by the identification of the police officer.

[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

(4) An official of a body conducting extra-judicial proceedings is required to submit his or her certificate of competence to the person subject to proceedings, the other participants in the proceedings and the court.

(5) [Repealed - RT III 2008, 24, 159 - entry into force 16.05.2008]

## § 11. Resolution of jurisdictional disputes between bodies conducting extra-judicial proceedings

(1) If the jurisdiction to proceed with a misdemeanour matter is granted by law to several bodies conducting extra-judicial proceedings, the misdemeanour matter shall be heard by an official of the body which performed the first procedural act. Jurisdictional disputes between the bodies conducting extra-judicial proceedings shall be resolved by agreement.

(2) If bodies conducting extra-judicial proceedings fail to reach an agreement, the jurisdictional dispute shall be immediately resolved by a resolution of:

- 1) a minister if the bodies belong to his or her area of government;
- 2) the minister responsible for the area in the cases not specified in clause (1) of this subsection.

[RT I, 04.07.2017, 1 - entry into force 01.01.2018]

(3) A body conducting extra-judicial proceedings which according to a resolution provided for in subsection (2) of this section is not competent to continue the proceedings shall send the documentation concerning the misdemeanour together with a covering letter to the body competent to conduct the extra-judicial proceedings. Before sending the misdemeanour matter to the competent body, only urgent procedural acts shall be performed.

## § 12. Place of hearing misdemeanour matter

(1) In the case of extra-judicial proceedings, a misdemeanour matter shall be heard according to the place of commission of the misdemeanour.

[RT I 2003, 83, 557 - entry into force 01.01.2004]

(2) At the request of a person subject to proceedings, the misdemeanour matter may be heard according to:

- 1) the residence or seat of the person;

2) the place of registration of a motor vehicle, rail vehicle or air or water craft in Estonia.

(3) If a person subject to proceedings changes residence or seat after the commencement of the proceedings, the matter may be heard according to the new residence or seat at the request of the person.

(4) A body conducting extra-judicial proceedings shall adjudicate the requests specified in subsections (2) and (3) of this section by a ruling.

[RT I 2003, 83, 557 - entry into force 01.01.2004]

(5) A structural unit of the Police and Border Guard Board with national jurisdiction to proceed with a misdemeanour may refer the hearing of the misdemeanour matter to a structural unit of the Police and Border Guard Board with regional jurisdiction to proceed with the misdemeanour according to the place of commission of the misdemeanour, if this is expedient and does not damage the interests of the person subject to proceedings. At the request of the person subject to proceedings, the misdemeanour matter may be referred to a body conducting extra-judicial proceedings with regional jurisdiction to proceed with the misdemeanour according to the person's residence or seat or the place of registration of a motor vehicle, rail vehicle or air or water craft in Estonia.

[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

### **§ 13. Bodies conducting court proceedings**

Court proceedings shall be conducted by county courts, circuit courts and the Supreme Court.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 14. Jurisdiction**

(1) A misdemeanour matter or an appeal filed against a decision made in a misdemeanour matter shall be heard by the county court in whose territorial jurisdiction the misdemeanour was committed. In the cases specified in subsections 12 (2) and (3) of this Code, a misdemeanour matter or an appeal filed against a decision made in a misdemeanour matter shall be heard by the county court in whose territorial jurisdiction the residence or seat or the place of registration of a motor vehicle, rail vehicle or air or water craft in Estonia specified in the request is located.

(2) A court shall verify the jurisdiction over a misdemeanour matter during preparations for the court hearing. If the court ascertains incorrect jurisdiction, the court shall make a ruling on sending the misdemeanour matter to a court with appropriate jurisdiction. Before sending the misdemeanour matter to a court with appropriate jurisdiction, only urgent procedural acts shall be performed.

(3) If a county court contests the jurisdiction over a misdemeanour matter received from another court, the jurisdiction shall be determined by the chairman of the circuit court within the territorial jurisdiction of the circuit court, and in other cases by the Chief Justice of the Supreme Court. If a circuit court contests the jurisdiction over a misdemeanour matter received from another court, the jurisdiction shall be determined by the Chief Justice of the Supreme Court.

(4) If the permission of a judge is necessary for the performance of a procedural act in an extra-judicial proceeding, such permission is granted by the county judge in whose territorial jurisdiction the procedural act is to be performed.

(5) The appeals prescribed in § 78 of this Code which are filed against the activities of a body conducting extra-judicial proceedings shall be adjudicated by the county judge in whose territorial jurisdiction the contested ruling or procedural act was made or performed.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 15. Court panel hearing misdemeanour matters**

(1) In county courts, misdemeanour matters and the appeals filed against the decisions made by bodies conducting extra-judicial proceedings shall be heard by the county judge sitting alone.

(2) In circuit courts, misdemeanour matters shall be heard by a panel of three judges. Pre-trial proceedings in misdemeanour matters shall be conducted by the circuit court judge sitting alone.

(3) In the Supreme Court, misdemeanour matters shall be heard by a panel of at least three judges.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Division 2**

# Participants in Proceedings and Parties to Court Proceedings in Misdemeanour Procedure

## § 16. Participants in proceedings

The participants in the proceedings are the person subject to proceedings and the counsel of the person.

## § 17. Parties to court proceedings

(1) In court procedure, the parties to a court proceeding are the participants in the proceedings and the body which conducted the extra-judicial proceedings.

(2) In the Supreme Court, the parties to a court proceeding are the counsel, who is an advocate, of the person subject to proceedings or the offender and the body which conducted the extra-judicial proceedings or its representative, who is an advocate.

[RT I 2003, 83, 557 - entry into force 01.01.2004]

## § 18. Person subject to proceedings and offender

(1) A natural or legal person with regard to whom misdemeanour proceedings have been commenced is a person subject to proceedings. The owner or authorised user of a vehicle to whom a notice of fine is sent in written caution procedure is not deemed to be the person subject to proceedings.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(2) A person subject to proceedings regarding whose punishment a decision of the body conducting extra-judicial proceedings or a court judgment has entered into force is an offender.

(3) If a person subject to proceedings or an offender is a legal person, the legal representative of the person has all the rights of the principal and he or she may give testimony in the name of the person.

## § 19. Rights and obligations of persons subject to proceedings

(1) A person subject to proceedings has the right to:

- 1) know which misdemeanour matter is subject to hearing with regard to the person;
- 2) the assistance of a counsel pursuant to the procedure provided for in subsections (2) and (3) of this section;
- 3) be present at the hearing of the misdemeanour matter concerning the person in court;
- 4) give testimony and submit evidence and requests;
- 5) know the purpose of the procedural acts;
- 6) examine the report of a procedural act, audio and video recordings of a procedural act and give statements on the conditions and course of the procedural act, procedure results, report and recordings of the procedural act, whereas such statements are recorded in the report or audio and video recorded;

[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

7) contest a procedural act or decision of the body conducting the extra-judicial proceedings or of the court pursuant to the procedure provided for in this Code.

(2) A person subject to proceedings has the right to contact the person's counsel upon detention of the person or any other procedural act which is performed first. Upon detention or any other procedural act which is performed first, the body conducting the proceedings shall provide the person subject to proceedings with the opportunity to use the means of communication at the disposal of the body in order to contact the counsel of the person. The counsel defending the person subject to proceedings may participate in the performance of a procedural act concerning the person, but failure of the counsel to appear shall not hinder the performance of the act.

[RT I 2003, 26, 156 - entry into force 21.03.2003]

(3) The participation of a counsel in a court proceeding is mandatory if the person subject to proceedings is 14 to 18 years of age or is unable to represent himself or herself due to a mental disorder.

(4) A person subject to proceedings is required to:

- 1) appear when summoned by the body conducting the proceedings if mandatory appearance is specified in the summons;
- 2) comply with the lawful orders of the body conducting the proceedings.

## Division 3 Counsel in Misdemeanour Procedure

### § 20. Counsel

(1) Persons subject to proceedings and offenders may have a counsel who is an advocate or, with the permission of the body conducting the proceedings, any other person who has been awarded at least an officially recognised

Master's level degree in the field of study of law or a qualification equal thereto for the purposes of subsection 28 (2<sup>2</sup>) of the Republic of Estonia Education Act or a foreign qualification equal thereto.  
[RT I 2008, 29, 189 - entry into force 01.07.2008]

(2) The authority of a counsel shall be certified by an authorisation document.

(3) A counsel may have several principals if the interests of the principals are not in conflict. A person subject to proceedings or an offender may have no more than two counsels.

(4) An offender shall file an appeal in cassation or a petition for review through an advocate.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

## **§ 21. Rights and obligations of counsel and removal of counsel**

(1) A counsel has the right to:

- 1) participate in the proceedings as of the detention of the person subject to the proceedings or as of the performance of first procedural acts concerning other persons subject to proceedings, but the failure of the counsel to appear shall not hinder the performance of a procedural act;
- 2) receive from natural and legal persons documents necessary for the provision of legal assistance to the person being defended;
- 3) submit evidence and requests;
- 4) with the knowledge of the body conducting the proceedings, use technical equipment in the performance of the defence obligation unless this hinders the performance of a procedural act.

(2) Pursuant to the procedure provided for in this Code, a counsel has the right to:

- 1) participate in the proceedings together with the person subject to proceedings or independently;
- 2) contest a procedural act or decision of the body conducting the proceedings.

(3) The participation of a counsel in a court proceeding is mandatory on the bases provided for in subsection 19 (3) of this Code.

(4) In misdemeanour procedure, a counsel is removed on the bases and pursuant to the procedure provided for in criminal procedure.

[RT I 2003, 26, 156 - entry into force 21.03.2003]

## **§ 22. Grant of state legal aid**

[RT I 2004, 56, 403 - entry into force 01.03.2005]

(1) In misdemeanour proceedings, state legal aid is granted on the bases and pursuant to the procedure prescribed in the State Legal aid Act.

[RT I 2004, 56, 403 - entry into force 01.03.2005]

(2) If a court finds that a person subject to proceedings is unable to protect his or her rights himself or herself or his or her essential interests may be insufficiently protected in court proceedings without an advocate, the court may decide to grant state legal aid to the person on its own initiative and on the bases and pursuant to the procedure prescribed in the State Legal Aid Act.

[RT I 2004, 56, 403 - entry into force 01.03.2005]

(3) If a person specified in subsection 19 (3) of this Code does not choose a counsel for himself or herself, the Bar Association shall appoint a counsel for him or her at the request of the court and at the expense of the state.

[RT I 2009, 1, 1 - entry into force 01.01.2010]

(4) A copy of the ruling made on granting of state legal aid shall be included in the misdemeanour file.

[RT I 2009, 1, 1 - entry into force 01.01.2010]

## **§ 23. Compensation for remuneration of counsel upon termination of misdemeanour proceedings**

In the case of termination of misdemeanour proceedings on the bases provided for in clauses 29 (1) 1) to 3) and 5) to 6), the person subject to the proceedings shall, at his or her request and on the basis of a court ruling, be compensated for a reasonable amount of remuneration paid to the counsel chosen by the person, out of the funds of the state of local government budget.

[RT I 2003, 26, 156 - entry into force 21.03.2003, applied retroactively as of 01.09.2002]

# **Division 4**

# **Experts and Interpreters or Translators in Misdemeanour Procedure**

## **§ 24. Experts and interpreters or translators**

(1) Experts participate in misdemeanour proceedings and remove themselves or are removed on the bases and pursuant to the procedure provided for criminal procedure.

(2) Interpreters or translators are engaged in extra-judicial proceedings in the conduct of procedural acts at the request of participants in the proceedings or witnesses, and in court proceedings. Interpreters or translators remove themselves or are removed on the bases and pursuant to the procedure provided for criminal procedure. [RT I, 14.02.2014, 1 - entry into force 24.02.2014]

## **Division 5 Bases for Officials of Bodies Conducting Extra- Judicial Proceedings and for Judges for Removing Themselves, and Removal of Officials of Bodies Conducting Extra-Judicial Proceedings and of Judges**

## **§ 25. Bases for officials of bodies conducting extra-judicial proceedings or judges for removing themselves**

(1) An official of a body conducting extra-judicial proceedings or a judge is required to remove himself or herself if he or she:

- 1) is a person close to the person subject to proceedings, i.e. his or her ascendant or descendant or a first or second order collateral relative, or is or has been a first order relative by marriage, an adoptive parent, adoptive child or the spouse of the person subject to proceedings;
- 2) has previously heard the same misdemeanour matter;
- 3) cannot remain impartial for any other reason.

(2) The participation of a judge in the Criminal Chamber of the Supreme Court does not constitute a basis for the judge to remove himself or herself upon further hearing of the same misdemeanour matter in the Supreme Court.

(3) Unjustified removal of oneself from the hearing of a misdemeanour matter is prohibited.

(4) Persons who are close to each other or to the person subject to proceedings according to clause (1) 1) of this section shall not be included in the composition of the panel of a court.

(5) An official of a body conducting extra-judicial proceedings or a judge shall formalise the removal of himself or herself by a reasoned ruling on removal which shall be added to the misdemeanour file.

## **§ 26. Removal of official of body conducting extra-judicial proceedings or judge**

(1) If an official of a body conducting extra-judicial proceedings or a judge does not remove himself or herself on the bases for removal provided for in subsection 25 (1) of this Code, a participant in the proceedings may submit a petition of challenge with regard to the official or the judge. In a court proceeding, the body conducting extra-judicial proceedings also has the right to submit a petition of challenge with regard to a judge. A petition of challenge regarding an official of a body conducting extra-judicial proceedings or a judge shall be submitted immediately after becoming aware of the basis for removal.

(2) A petition of challenge regarding an official of a body conducting extra-judicial proceedings may be submitted until the making of the decision in the misdemeanour matter.

(3) A petition of challenge regarding a judge may be submitted until the end of the opening of the hearing of a misdemeanour matter or appeal. If a basis for removal becomes evident later and the judge is immediately notified of the basis, a petition of challenge may be submitted until the end of the hearing on the merits of the matter.

(4) An official of a body conducting extra-judicial proceedings shall remove himself or herself by a reasoned ruling or, in the case of denial of the petition of challenge, shall indicate the reasons for refusal to remove himself or herself in the decision on the misdemeanour matter. A judge hearing a misdemeanour matter sitting alone shall adjudicate a petition of challenge by a separate ruling without holding a session, or by a reasoned ruling included in the minutes of the session or, in the case of denial of the petition of challenge, shall indicate the reasons for refusal to remove himself or herself in the decision on the misdemeanour matter.

(5) If a court hears an appeal collegially, the court shall hear the explanations of the judge to be removed and the opinions of the person subject to the proceedings and the representative thereof. A petition of challenge shall

be adjudicated by a ruling made in chambers. A petition of challenge regarding a judge shall be adjudicated by the rest of the panel of the court in the absence of the judge to be removed. If the votes against and the votes in favour are divided equally, the judge shall be removed. A petition of challenge regarding several judges or the whole panel of the court shall be adjudicated by the same panel of the court by a simple majority.

(6) Upon submission of a petition of challenge, the official of the body conducting the extra-judicial proceedings or the judge may perform only urgent procedural acts before the adjudication of the petition.  
[RT I 2003, 83, 557 - entry into force 01.01.2004]

#### **§ 27. Filing of appeal against denial of petition of challenge regarding official of body conducting extra-judicial proceedings or judge**

A participant in the proceedings who submits a petition of challenge with regard to an official of a body conducting extra-judicial proceedings or a judge may present objections concerning denial of the petition in an appeal filed against the decision made in the matter. Objections may include a reference to the basis for the removal of the official of the body conducting extra-judicial proceedings or the judge if the petition of challenge was submitted within the prescribed term but was denied or if the basis for removal became evident after the adjudication of the misdemeanour matter.

### **Chapter 3**

## **PARTICIPATION OF BODIES CONDUCTING EXTRA-JUDICIAL PROCEEDINGS IN COURT PROCEEDINGS**

#### **§ 28. Rights and obligations of bodies conducting extra-judicial proceedings in court proceedings**

- (1) Bodies conducting extra-judicial proceedings have the right to participate in court proceedings.
- (2) In court proceedings, a body conducting extra-judicial proceedings has the right to:
  - 1) participate in the hearing of the misdemeanour matter in court;
  - 2) submit evidence and requests;
  - 3) examine the misdemeanour file;
  - 4) contest the decision of the court pursuant to the procedure prescribed by this Code.
- (3) In court proceedings, an official of a body conducting extra-judicial proceedings is required to:
  - 1) appear when summoned by the court if mandatory appearance is specified in the summons;
  - 2) comply with the lawful orders of the court.

### **Chapter 4**

## **CIRCUMSTANCES PRECLUDING MISDEMEANOUR PROCEEDINGS AND BASES FOR TERMINATION OF MISDEMEANOUR PROCEEDINGS**

#### **§ 29. Circumstances precluding misdemeanour proceedings**

- (1) Misdemeanour proceedings shall not be commenced and the proceedings commenced shall be terminated if:
  - 1) the act in question does not contain the elements of a misdemeanour;
  - 2) the person has been previously punished for the same act, regardless of whether the punishment was imposed in the Republic of Estonia or in any other state;
  - 3) a decision on termination of the misdemeanour proceedings concerning the same act has been made with regard to the person;
  - 4) the act in question contains elements of a criminal offence;
  - 5) the limitation period for the misdemeanour has expired;
  - 6) the Act which prescribed punishment for the misdemeanour has been repealed;
  - 7) the person with regard to whom the misdemeanour proceedings are to be or have been commenced is dead, or the legal person is dissolved.
- (2) If the person who commits an unlawful act is a minor who is not capable of guilt on the grounds of his or her age but he or she is a child who needs assistance for the purposes of § 26 of the Child Protection Act, the body conducting the extra-judicial proceedings or the court shall send a notification and a copy of the materials concerning the misdemeanour matter in the required scope to the local authority of the residence of the minor.  
[RT I, 05.12.2017, 1 - entry into force 01.01.2018]

(3) Regardless of the provisions of subsection (1) of this section, misdemeanour proceedings shall be commenced if so requested by the person subject to proceedings in order to achieve his or her rehabilitation, on the condition that the limitation period has not expired.

[RT I 2006, 31, 233 - entry into force 16.07.2006]

### **§ 30. Reasons of expediency of termination of misdemeanour proceedings**

[RT I, 05.12.2017, 1 - entry into force 01.01.2018]

(1) A body conducting misdemeanour proceedings may terminate the proceedings if:

- 1) the guilt of the person subject to proceedings is negligible and there is no public interest in continuation of misdemeanour proceedings;
- 2) the person subject to proceedings has voluntarily compensated for or remedied the damage caused by the misdemeanour;
- 3) the person subject to proceedings assumed an obligation to participate in a social programme; or
- 4) the person subject to proceedings who is a minor has assumed an obligation to use conciliation services or assumed any other appropriate obligation.

(1<sup>1</sup>) Performance of the obligation prescribed in clause (1) 3) of this section shall be based on the minimum term of application of a certain social programme which shall not exceed ten months. The body conducting extra-judicial proceedings shall append a summary on passing the social programme to the misdemeanour file.

(1<sup>2</sup>) If the person with regard to whom misdemeanour proceedings are terminated on the basis of clause (1) 3) or 4) of this section does not perform the obligation assumed or commits a new offence during the participation in a social programme, use of conciliation services or performance of an obligation, the body conducting extra-judicial proceedings may resume the misdemeanour proceedings by its ruling. If a person is punished in the resumed proceedings, the time of participation in the social programme or use of the conciliation services shall not be deducted from the punishment.

(1<sup>3</sup>) In the case of termination of misdemeanour proceedings on the bases provided for in subsection (1) of this section, the person subject to proceedings shall compensate for the procedural expenses. The procedural expenses of a person subject to proceedings who is a minor shall be covered by the state.

(1<sup>4</sup>) Upon determination of procedural expenses, the body conducting proceedings shall take the provisions of subsection 180 (3) of the Code of Criminal Procedure into consideration.

(2) If the body conducting misdemeanour proceedings finds that no punishment or sanction provided for in subsection 87 (2) of the Penal Code has to be imposed to a person who committed a misdemeanour when the person was at least fourteen but less than eighteen years of age, the body conducting the extra-judicial proceedings may caution the minor, terminate the misdemeanour proceedings, and in the case of a child who needs assistance for the purposes of § 26 of the Child Protection Act, to send a notification of the minor and a copy of the materials of the misdemeanour matter in the required scope to the local authority of the place of residence of the minor.

[RT I, 05.12.2017, 1 - entry into force 01.01.2018]

## **Chapter 5 PROCEDURAL ACTS, TERMS IN PROCEEDINGS AND PROCEDURE EXPENSES**

### **§ 31. Collection of evidence and application of provisions concerning criminal procedure in performance of procedural acts.**

(1) The burden of proof and collection of evidence in misdemeanour proceedings are subject to the provisions concerning criminal procedure, taking into account the specifications provided for in this Code.

[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

(1<sup>1</sup>) If the place, time or manner of commission of a misdemeanour or other facts relating to the misdemeanour have been photo or video recorded in the course of state supervision, this recording may be independent evidence in misdemeanour proceedings, if the following appears from the recording:

- 1) the connection of the recording with the misdemeanour;
- 2) when, on what grounds and by whom the recording was created;
- 3) other facts which are relevant for adjudication of the misdemeanour matter.

[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

(2) Bodies conducting extra-judicial proceedings and courts have the right to require natural and legal persons to submit documents, things or other objects necessary for the adjudication of a misdemeanour matter.

(3) A body conducting extra-judicial proceedings of corruption misdemeanour may request that a court make a ruling that provides access to banking secrecy and information of the register of fund units, if this is unavoidably necessary for the achievement of the aim of the proceedings of corruption misdemeanour.  
[RT I, 29.06.2012, 1 - entry into force 01.04.2013]

### **§ 31<sup>1</sup>. Fingerprinting of persons subject to proceedings and collecting of their DNA samples**

Persons subject to proceedings who are suspected of commission of the offences provided for in §§ 15<sup>1</sup> and 15<sup>2</sup> of the Narcotic Drugs and Psychotropic Substances and their Parent Substances Act or § 218 of the Penal Code, may be fingerprinted for the purposes of proceeding, detection and prevention of offences and their DNA samples may be collected. The fingerprinting data and the data from DNA sample analysis of the persons shall be entered respectively in the National Fingerprint Database and the National DNA Database.  
[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

### **§ 31<sup>2</sup>. Request to electronic communications undertakings to submit information**

(1) The Data Protection Inspectorate, the Financial Supervision Authority, the Estonian Internal Security Service, the Environmental Inspectorate, the Tax and Customs Board and the Police and Border Guard Board may make enquiries to electronic communications undertakings about the data required for the identification of an end-user related to the identification tokens used in the public electronic communications network, except for the data relating to the fact of transmission of messages.

(2) With the permission of a court, the institution specified in subsection (1) of this section may make a single enquiry to electronic communications undertakings about the data listed in subsections 111<sup>1</sup>(2) and (3) of the Electronic Communications Act and not specified in the first subsection of this section. For the purposes of this section, single request is a request for obtaining the information specified in subsections 111<sup>1</sup>(2) and (3) concerning a particular telephone call, electronic mail, electronic commentary or another communication session related to the transmission of a single message.

(3) The enquiries specified in this section may be made only if this is unavoidably necessary for the achievement of the objectives of misdemeanour proceedings.  
[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

### **§ 31<sup>3</sup>. Official of body conducting extra-judicial proceedings as source of evidence**

(1) An official of a body conducting extra-judicial proceedings who directly perceived the facts relating to the misdemeanour and described these in a misdemeanour report or a decision made by expedited procedure may participate in judicial or appeal proceedings as a witness concerning the facts perceived by him or her.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(2) An official of the body conducting extra-judicial proceedings specified in subsection (1) of this section shall not participate in a judicial or appeal proceedings as a representative of the body conducting extra-judicial proceedings.  
[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

### **§ 31<sup>4</sup>. Photographs, films and other data recordings as evidence**

(1) Photographs, films or other data recordings made by a body conducting the proceedings may be independent evidence in misdemeanour proceedings if they conform to the provisions of clauses 31 (1<sup>1</sup>) 1) to 3) of this Code.  
[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

(2) A notation shall be made in a misdemeanour report or a decision made by expedited procedure concerning the application of the person who was present during making the photograph, film or other recording or the absence thereof.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

### **§ 31<sup>5</sup>. Information in State Register**

If commission of a misdemeanour is proved by the information of a state register with legal effect and the enquiry made to the register can be repeated, a notation is made in a misdemeanour report or a decision made by expedited procedure concerning the enquiry to the database. The notation shall indicate the time of making the enquiry and the result of the enquiry.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

### **§ 32. Prohibition on collection of evidence by surveillance activities**

(1) Collection of evidence by way of surveillance activities is prohibited in misdemeanour proceedings.

(2) Evidence collected by way of surveillance activities in a criminal proceeding may be used as evidence in a misdemeanour matter in which criminal proceedings have been terminated.

### **§ 33. Prohibition on declaring witnesses anonymous**

In misdemeanour proceedings, the anonymity of the witnesses is not guaranteed.

### **§ 33<sup>1</sup>. Prohibition on representatives of witnesses**

Upon questioning in misdemeanour proceedings, witnesses are not entitled to a representative.  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

### **§ 34. Specifications concerning physical examination of persons**

(1) Physical examination of persons may be conducted by an official of a body conducting extra-judicial proceedings who pursuant to § 45 of this Code has the right to detain persons.

(2) An official of a body conducting extra-judicial proceedings who does not have the right to detain persons may submit a request to the Police and Border Guard Board in order to involve a police officer for the purposes of conducting physical examination of a person. The police officer shall conduct the physical examination in the presence of the official of the body conducting extra-judicial proceedings.  
[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

(3) An official of a body conducting extra-judicial proceedings who conducts physical examination of a person shall prepare a report on the examination. If a police officer is involved in the physical examination, the police officer shall also sign the report.

### **§ 35. Specifications concerning search**

(1) In misdemeanour proceedings, a body conducting extra-judicial proceedings may conduct a search on the basis of a ruling which contains the permission of the county judge as the decision.

(2) The premises of diplomatic representations shall not be searched.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 36. Prohibition on seizure of property**

In misdemeanour proceedings, property shall not be seized.

### **§ 37. Prohibition on application of preventive measures prescribed by criminal procedure**

The preventive measures prescribed by criminal procedure shall not be applied in misdemeanour proceedings, unless otherwise provided by this Code.

### **§ 38. Time limits in proceedings and expenses of bodies conducting extra-judicial proceedings and courts**

(1) In extra-judicial and court proceedings, the time limits in the proceedings shall be calculated and restored and the procedure expenses shall be calculated pursuant to the provisions concerning criminal procedure.

(2) The instructions for reimbursement of the expenses of the participants in hearings of misdemeanour matters shall be established by the Government of the Republic.

## **Chapter 6**

# **SUMMONING, AND IMPOSITION OF FINES AND COMPELLED ATTENDANCE IN CASE OF FAILURE TO APPEAR**

### **§ 39. Ascertaining location of person subject to proceedings**

If the location of a person subject to proceedings is unknown, the location shall be ascertained by the body conducting the extra-judicial proceedings or, in the case of court proceedings, by the court.

### **§ 40. Summons**

(1) A person shall be summoned to the body conducting the proceedings by a summons.

(2) A summons sent to a person shall contain the following information:

- 1) in the case of summoning a natural person, the given name, surname and address of the residence of the person and, in the case of summoning a legal person, the name and the address of the seat of the legal person;
- 2) in the case of summoning a body conducting extra-judicial proceedings, the name and the address of the seat of the body conducting extra-judicial proceedings;
- 3) the reason for summoning the person, and the capacity in which the person is summoned;
- 4) the legal assessment of the misdemeanour and, if the misdemeanour proceedings are commenced against a person, the given name and surname of the person;
- 5) the place and time of appearance;
- 6) in the case of summoning a person subject to proceedings, the rights and obligations of the person pursuant to § 19 of this Code;
- 7) whether, in the case of summoning a person subject to proceedings, the appearance of the person is mandatory, and the consequences of failure to appear provided for in § 43 of this Code;
- 8) whether, in the case of summoning a body conducting extra-judicial proceedings, the appearance of the body is mandatory;
- 9) whether, in the case of summoning a witness, the appearance of the witness is mandatory, and the consequences of failure to appear provided for in § 43 of this Code;
- 10) the obligation to give notice of failure to appear and of the reasons for such failure.

(3) The final part of a summons shall contain a notice which shall be completed if the summons is served on the person against signature. The notice shall set out the given name and surname of the addressee of the summons, the signature of the addressee certifying receipt of the summons and the date of receipt of the summons. If the person refuses to accept the summons, a notation of the body conducting the proceedings concerning the refusal, accompanied by the date of the refusal and the signature and official title of the body conducting the proceedings.

[RT I 2003, 26, 156 - entry into force 21.03.2003]

#### **§ 41. Procedure for service of summonses**

(1) A summons shall be served on a person against signature pursuant to subsection (2) of this section or shall be delivered to the person in the form of a registered letter sent by post with notice of delivery pursuant to subsection (3) of this section or shall be sent by electronic means pursuant to subsection (4) of this section.

(2) A summons shall be served on an adult person or a minor of at least 14 years of age against signature on a notice which shall set out the time of service of the summons. If a summons cannot be served on the person being summoned, the summons shall be served, against signature on a notice, on a family member of at least 14 years of age who lives together with the person, and the time of service of the summons shall be indicated on the notice. If a person refuses to certify the receipt of the summons by a signature, the refusal to accept the summons and the date of the refusal shall be indicated in the notice. The person is deemed to have received the summons on the date of refusal to accept the summons.

(3) A summons sent by post is deemed to be received by the person on the date indicated in the notice of delivery of the postal service provider.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(4) Upon service of a summons by electronic means, the summons shall be sent at the electronic mail address indicated by the person in a procedural document or published on the Internet. The summons shall be accompanied by a digital signature and shall be protected from third persons. Upon sending the summons, the obligation to certify receipt of the summons immediately by an electronic mail addressed to the sender shall be indicated. A summons sent by electronic means is deemed to be received by the person as of the date of the certification. If receipt of the summons is not certified within three days as of the date of sending the summons, the summons shall be sent in the form of a registered letter with notice of delivery or shall be served on the person against signature by the body conducting the proceedings.

(4<sup>1</sup>) If a summons is made accessible through the E-File system, the person summoned shall be notified of the existence of the summons at his or her electronic mail address indicated in a procedural document or published on the Internet. The notice shall include reference to the digital summons in the E-File system and the term for examination thereof which is three days as of the moment of sending the summons. A summons shall not be accompanied by digital signature if the sender and the time of sending thereof can be identified through the E-File system. A summons made accessible through the E-File system is deemed delivered if the recipient opens it in the information system or confirms the receipt thereof in the information system without opening the document and in the case this is done by another person to whom access to the documents in the information system is enabled by the recipient. If the summons is not examined through the E-File system within three days as of the date of sending the summons, the summons shall be sent in the form of a registered letter with advice of delivery or shall be served on the person summoned against signature.

[RT I, 22.03.2013, 9 - entry into force 01.04.2013]

(5) A summons shall be served on a person subject to proceedings and the counsel of the person in sufficient time necessary for appearance. Upon service of the summons on the counsel chosen by the person subject to proceedings, the summons is deemed to be also served on the principal.

(6) The summons of a minor of less than 14 years of age or of a person suffering from a mental disorder shall be sent to his or her parent or any other legal representative.

(7) If a person subject to proceedings has made known the residence or seat of the person in a procedural document signed by the person, a summons shall be sent to the person at the address of the residence or seat. If the person does not notify the body conducting the proceedings of a change of address, the summons shall be sent at the last address of the person which is known to the body conducting the proceedings.

(8) Notices read by an official of a body conducting extra-judicial proceedings or a judge to the participants in the proceedings who are present is deemed to be equal to serving the summons against signature if a corresponding notation has been made in the procedural document.

(9) The notices of delivery issued by postal service providers, the notices specified in subsection 40 (3) of this Code certifying receipt of a summons, the printouts of electronic mails concerning the issue of a summons and the printouts of certification notices shall be included in the misdemeanour file.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(10) The minister responsible for the area may establish by a regulation more specific requirements for electronic delivery of procedural documents in court proceedings through the E-File system.

[RT I, 22.03.2013, 9 - entry into force 01.04.2013]

#### **§ 42. Good reasons for failure to appear when summoned**

(1) If a person cannot appear at the body conducting the proceedings at the time specified in the summons, he or she shall immediately give notice thereof.

(2) Good reasons for failure to appear are:

- 1) absence of the person summoned which cannot be considered evasion of the misdemeanour proceeding;
- 2) belated receipt of the summons;
- 3) other circumstances considered to be a good reason by the body conducting the proceedings.

#### **§ 43. Imposition of fines or compelled attendance in case of failure to appear**

(1) If a person subject to proceedings who has received a summons in which mandatory appearance is indicated or a witness who has received a summons fails to appear in court, the court shall make a ruling on imposition of a fine in the amount of up to 30 fine units on the person.

(2) A court may release a person specified in subsection (1) of this section from the obligation to pay a fine imposed on him or her if the person proves that he or she failed to appear in court with good reason as provided for in subsection 42 (2) of this Code.

(3) If a person specified in subsection (1) of this section has received a summons but has failed to appear at the body conducting the extra-judicial proceedings or in court, the body or the court may, by a ruling, impose compelled attendance of the person.

(4) Compelled attendance shall be effected by the police.

## **Chapter 7 DETENTION OF PERSONS**

#### **§ 44. Basis and term for detention of person**

(1) A person with regard to whom there is justified reason to believe that he or she has committed a misdemeanour may be detained for up to 48 hours if he or she:

- 1) attempts to escape;
- 2) has not been identified;
- 3) is likely to continue commission of misdemeanours;
- 4) is likely to hinder or evade the misdemeanour proceedings.

(2) Upon detention of a person:

1) he or she is taken to the Police and Border Guard Board or the official premises of a body conducting extra-judicial proceedings who is competent to detain persons according to § 45 of this Code or to a police detention house;

[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

2) testimony is immediately taken from the person with regard to the commission of the misdemeanour and a report on the detention of the person or a misdemeanour report is prepared;

3) the person taken into custody is immediately taken to a county court for the hearing of the matter if the person has committed a misdemeanour and the body conducting extra-judicial proceedings deems it necessary to impose detention, and the corresponding misdemeanour report and other procedural documents have been prepared concerning the misdemeanour matter. In such case, the person subject to proceedings may file an objection to the court.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

(3) Detention commences as of the moment when the person is detained. The period of detention shall be included in the term of the punishment pursuant to the procedure provided for in subsection 68 (2) of the Penal Code.

(4) If it becomes evident that the detention of a person is not justified, he or she shall be released immediately.

(5) If a person is not detained on the bases provided for in subsection (1) of this section, the time of interrogation of the person or performance of any other procedural act with regard to him or her is not deemed to be detention of the person.

(6) The provisions of subsections 35<sup>1</sup>(2) to (4) of the Code of Criminal Procedure shall not apply to detention of a person.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

#### **§ 45. Persons entitled to apply detention**

(1) The following officials of the bodies conducting extra-judicial proceedings have the right to apply detention on persons on the bases and pursuant to the procedure provided for in § 44 of this Code:

1) police officers or officials of the Tax and Customs Board competent to supervise over customs legislation;

[RT I, 16.06.2017, 1 - entry into force 01.07.2017]

2) officials competent to conduct supervision over civil aviation safety, maritime safety, railway safety or railway traffic;

3) environmental supervision officials conducting supervision over hunting, fishing or forestry.

4) prison officers in the case of misdemeanours prescribed in subsection 325 (1) of the Penal Code.

[RT I 2010, 44, 258 - entry into force 19.07.2010]

(2) An official of a body conducting extra-judicial proceedings who does not have the right to detain persons may submit a request to the Police and Border Guard Board for involving a police officer in the detention of a person on the bases provided for in subsection 44 (1) of this Code. The police officer shall detain the person in the presence of the official of the body conducting extra-judicial proceedings who submitted the corresponding request.

[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

#### **§ 46. Report on detention of person**

(1) A report shall be prepared on the detention of a person on the bases provided for in subsection 44 (1) of this Code. A report on the detention of the person shall not be prepared if a misdemeanour report is prepared upon detention of the person and the information prescribed in subsection 69 (4) of this Code is entered in the misdemeanour report.

(2) A report on the detention of a person shall set out:

1) the place and date of the procedural act;

2) the name of the body conducting extra-judicial proceedings and the position, given name and surname of the official of the body who prepared the report;

3) the position, given name and surname of the police officer who participated in the detention of the person;

4) the given name and surname of the person subject to proceedings;

5) the duration of and basis for the detention together with a reference to subsection 44 (1) of this Code;

6) the place, date and time of the detention;

7) the legal assessment of the misdemeanour;

8) explanation of the rights and obligations of the person subject to proceedings pursuant to § 19 of this Code;

9) a description of the clothes and footwear of the person detained and information concerning visible health damage;

10) a list of the objects seized from the person upon detention, and the characteristic features of the objects;

11) the petitions and requests of the person detained;

12) the provision of procedural law on the basis of which the procedural act was performed.

(3) A report shall be signed by the person who prepared the report and by the police officer who participated in the detention. The person subject to proceedings shall sign the report, certifying that he or she has examined the report and the rights and obligations provided for in § 19 of this Code have been explained to him or her. If the person subject to proceedings refuses to sign the report, a corresponding entry shall be made in the report.

(4) At the request of a person subject to proceedings, at least one person of his or her choice shall be notified of his or her location. If the person detained is a minor, a parent or the guardian or curator of the minor and the social services department shall be immediately notified of the detention.

## **Chapter 8**

# **PROCEDURAL DOCUMENTS IN MISDEMEANOUR PROCEDURE**

### **§ 47. Procedural documents**

(1) Procedural documents are:

- 1) in extra-judicial proceedings, the misdemeanour report, reports on procedural acts, and the rulings and decisions of the body conducting the extra-judicial proceedings;
- 2) in court proceedings, court rulings, minutes of court sessions, and court judgments.

(1<sup>1</sup>) With the consent of a person subject to proceedings provided in a format which can be reproduced in writing, a report of a procedural act may be substituted by an audio and video recording of the procedural act if the recording contains the information provided for in subsection 49 (2), clause (4) 1) and subsection (5) of this Code and an oral confirmation of the person subject to proceedings that his or her rights and obligations were explained to him or her or his or her refusal to make such a confirmation.  
[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

(1<sup>2</sup>) If a person subject to proceedings does not consent to substitution of a report of a procedural act by a sound and video recording, the procedural act shall be recorded pursuant to the procedure prescribed by this Code.  
[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

(1<sup>3</sup>) It is prohibited to alter the sound and video recording of a procedural act specified in clause 19 (1) 6) of this Code after examination of the recording by the person subject to proceedings.  
[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

(2) In the cases not governed by the Code of Misdemeanour Procedure, the rulings and reports on procedural acts which are to be prepared upon collection of evidence in a misdemeanour proceeding shall be prepared pursuant to the requirements prescribed for criminal procedure, taking into account the specifications arising from misdemeanour procedure.

### **§ 47<sup>1</sup>. Making procedural documents available in court proceedings**

(1) A court shall make all the procedural documents of court proceedings immediately available to parties to court proceedings in the E-File system regardless of how these are delivered to the parties to court proceedings.

(2) The minister responsible for the area may establish by a regulation more specific requirements for making procedural documents available through the information system.  
[RT I, 22.03.2013, 9 - entry into force 01.04.2013]

### **§ 48. Ruling**

(1) A ruling is:

- 1) a reasoned procedural decision of a body conducting extra-judicial proceedings or a court which is prepared as a separate procedural document and included in the misdemeanour file;
- 2) in extra-judicial proceedings or court proceedings, a procedural decision which is made concerning adjudication of a single issue and which need not be reasoned.

(2) The introduction of a reasoned ruling shall set out:

- 1) the place and date of the procedural act;
- 2) the name of the court or the body conducting extra-judicial proceedings and the given name, surname and official title of the person who prepared the ruling;
- 3) the legal assessment of the misdemeanour matter: the person with regard to whom the misdemeanour proceedings have been commenced, and the legal assessment of the misdemeanour;
- 4) the given name, surname and personal identification code of the person subject to proceedings or, in the case of an alien or a person without a personal identification code, his or her place and date of birth, nationality, address of the residence and place of employment or, if the person subject to proceedings is a legal person, the name and registry code of the person or, in the case of a foreign legal person, the numerical or letter combination equal to a registry code, and the address of the seat of the person.

(3) The main part of a reasoned ruling shall set out:

- 1) the grounds for the procedural decision;
- 2) the basis for the ruling under procedural law.

(4) The final part of a reasoned ruling shall set out the decision made in the adjudication of the matter, and the procedure for appeal against the ruling. The ruling shall be signed by the person who prepared the ruling.

(5) Rulings shall be prepared in compliance with the additional requirements for their contents.

(6) The rulings of the bodies conducting the proceedings are binding on the persons concerned.

#### **§ 49. Report on procedural act**

(1) A report on a procedural act shall be prepared in legible handwriting or in typescript. If necessary, the assistance of a secretary may be used.

(2) The introduction of a report shall set out:

- 1) the place and date of the procedural act;
- 2) the name of the court or the body conducting extra-judicial proceedings and the official title, given name and surname of the person who prepared the report;
- 3) the title of the misdemeanour matter and the name of the procedural act;
- 4) in the cases provided by law, a reference to the ruling on the basis of which the procedural act was performed;
- 5) the given name, surname and personal identification code of a natural person subject to the procedural act, or the name and registry code of a legal person and the given name, surname, place of residence or seat and the procedural status of the representative of the legal person;
- 6) the given name, surname, place of residence or employment and the procedural status of the other persons participating in the procedural act;
- 7) the time of commencement and end and the conditions of the procedural act;
- 8) explanation of the rights and obligations relating to the procedural act to the person;
- 9) the provision of procedural law on the basis of which the procedural act was performed.

(3) A participant in the proceedings shall sign the introduction of the report to certify that his or her rights and obligations have been explained to him or her. If he or she refuses to sign the report, a corresponding entry shall be made in the report.

(4) The main part of a report shall set out:

- 1) the details of the course and results of the procedural act as precisely as necessary for the collection of evidence and in compliance with the additional requirements prescribed for the content of procedural acts in this Code;
- 2) the use of technical equipment.

(5) The final part of a report shall list the objects seized in the course of the procedural act and the method of packaging and the place of storage of the objects.

(6) A report shall be signed by the person who prepared the report.

#### **§ 50. Annex to report on procedural act**

If necessary, evidentiary information on photos, drawings, films, audio or video recordings or in any other form may be stored as annexes to the report on a procedural act pursuant to the procedure provided for criminal procedure.

#### **§ 50<sup>1</sup>. Delivery of digital documents**

(1) Digital applications, appeals, objections and other documents in misdemeanour proceedings shall be filed directly or through the E-File system, unless otherwise provided for in this Code. A body conducting proceedings shall enter directly sent digital documents in the E-File system.

(2) For a digital document to be appended to a misdemeanour file, the document shall be printed and included in the file. A body conducting proceedings shall certify the authenticity of the printed document and the correspondence thereof to the digital document by his or her signature and add the identification number of the document in the E-File system thereto.

[RT I 2008, 28, 180 - entry into force 15.07.2008]

#### **§ 50<sup>2</sup>. Misdemeanour file**

(1) A misdemeanour file is a set of documents collected in a misdemeanour matter.

(2) A court maintains a court file on every misdemeanour matter which includes, in chronological order, all the procedural documents and other documentation related to the matter. In the cases prescribed by law, other objects relevant to the proceedings shall be included in the court file.

(3) The provisions of subsections 160<sup>1</sup>(3) to (7) of the Code of Criminal Procedure also apply to court files in misdemeanour matters in addition to the provisions of this Code.  
[RT I, 22.03.2013, 9 - entry into force 01.04.2013]

#### **§ 51. Requirements for documents**

(1) The form of documents of extra-judicial proceedings of misdemeanour matters shall be established by the minister responsible for the area.

(2) The procedure for the preparation, forwarding and preservation of documents signed digitally in misdemeanour proceedings and other digital documents shall be established by the minister responsible for the area.  
[RT I 2008, 28, 180 - entry into force 15.07.2008]

## **Chapter 9 JURISDICTION OVER MISDEMEANOURS PROVIDED FOR IN PENAL CODE**

#### **§ 52. Bodies conducting extra-judicial proceedings concerning misdemeanours provided for in Penal Code**

(1) Extra-judicial proceedings concerning the misdemeanours prescribed in subsections 108 (3) and (5), subsections 151 (1) and (3), subsections 152 (1) and (3), subsections 153 (1) and (3), § 153<sup>1</sup>, §§ 157, 165-170, 179<sup>1</sup>, 180, 224<sup>1</sup>, 225, 226 and 264<sup>1</sup>, subsections 266 (1) and (3), §§ 269, 271, 305, 334<sup>1</sup> and 334<sup>2</sup>, subsections 336 (1) and (3) and §§ 337, 338, 342, 372<sup>1</sup> and 426 of the Penal Code shall be conducted by the Police and Border Guard Board.  
[RT I, 26.06.2017, 69 - entry into force 06.07.2017]

(2) Extra-judicial proceedings concerning the misdemeanours prescribed in subsections 157<sup>1</sup>(1) and (3) of the Penal Code shall be conducted by the Data Protection Inspectorate.

(3) Extra-judicial proceedings concerning the misdemeanours prescribed in subsection 218 (1) and (2), § 275 and subsection 325 (1) of the Penal Code shall be conducted by the Police and Border Guard Board, the Ministry of Justice and a prison.

(4) Extra-judicial proceedings concerning the misdemeanours prescribed in § 225<sup>1</sup> of the Penal Code shall be conducted by the Technical Surveillance Authority.

(5) Extra-judicial proceedings concerning the misdemeanours prescribed in subsections 261 (1) and (3) and § 262 of the Penal Code shall be conducted by the Police and Border Guard Board and a rural municipality or city government.

(6) Extra-judicial proceedings concerning the misdemeanours prescribed in § 270 of the Penal Code shall be conducted by the Maritime Administration.

(7) Extra-judicial proceedings concerning the misdemeanours prescribed in subsections 277 (1) and (1<sup>1</sup>) of the Penal Code shall be conducted by the Police and Border Guard Board, the Estonian Internal Security Service, the Tax and Customs Board and the Rescue Board.

(8) Extra-judicial proceedings concerning the misdemeanours prescribed in § 278 of the Penal Code shall be conducted by the Police and Border Guard Board and the Rescue Board.

(9) Extra-judicial proceedings concerning the misdemeanours prescribed in § 279 of the Penal Code shall be conducted by the Police and Border Guard Board and a law enforcement authority.

(10) Extra-judicial proceedings concerning the misdemeanours prescribed in subsections 280 (1) and (3) of the Penal Code shall be conducted by the Police and Border Guard Board and an administrative authority entitled to receive data.

(11) Extra-judicial proceedings concerning the misdemeanours prescribed in § 282 of the Penal Code shall be conducted by rural municipality or city governments.  
[RT I, 04.07.2017, 1 - entry into force 01.01.2018]

(12) Extra-judicial proceedings concerning the misdemeanours prescribed in subsections 339 (1) and (3) of the Penal Code shall be conducted by the Police and Border Guard Board and the Consumer Protection Board.

(13) Extra-judicial proceedings concerning the misdemeanours prescribed in § 352 of the Penal Code shall be conducted by the Police and Border Guard Board, the Environmental Inspectorate and the Rescue Board.

(14) Extra-judicial proceedings concerning the misdemeanours prescribed in subsections 353 (1) and (3) of the Penal Code shall be conducted by the Environmental Inspectorate and, as regards traffic requirements, by the Police and Border Guard Board.

(15) Extra-judicial proceedings concerning the misdemeanours prescribed in §§ 362 and 366 of the Penal Code shall be conducted by the Environmental Inspectorate.

(16) Extra-judicial proceedings concerning the misdemeanours prescribed in subsections 372 (1) and (3) of the Penal Code shall be conducted by the Police and Border Guard Board and a law enforcement authority.

(17) Extra-judicial proceedings concerning the misdemeanours prescribed in § 398 and subsections 398<sup>1</sup>(1) and (3) of the Penal Code shall be conducted by the Financial Supervision Authority.  
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

#### **§ 52<sup>1</sup>. Competence for hearing misdemeanours provided by Penal Code**

The misdemeanours provided for in subsections 151 (1) and (3) of the Penal Code shall be heard by county courts.

[RT I 2006, 31, 234 - entry into force 16.07.2006]

## **Chapter 10 EXTRA-JUDICIAL PROCEEDINGS**

### **Division 1 Caution Procedure**

[Repealed -RT I, 19.03.2015, 1 - entry into force 29.03.2015]

§ 53.–§ 54.[Repealed - RT I, 19.03.2015, 1 - entry into force 29.03.2015]

### **Division 1<sup>1</sup> Written Caution Procedure**

[RT I 2008, 54, 304 - entry into force 27.12.2008]

#### **§ 54<sup>1</sup>. Application of written caution procedure**

(1) In the cases provided by law, the body conducting extra-judicial proceedings may impose a cautionary fine, in the case of a traffic misdemeanour committed by a motor vehicle, to the registered owner of the motor vehicle, or if an authorised user has been entered in the register, to the authorised user (hereinafter *person responsible for motor vehicle*), if:

1) the reason for the commencement of misdemeanour proceedings is the information transmitted by an automatic traffic supervision device concerning a violation of the traffic rules, based on which the registration plate of the motor vehicle and the time and place of establishment of the violation are visually identifiable; or  
2) the authorised supervising official who discovered the offence was unable to immediately identify the driver of the motor vehicle and the violation was recorded on a photo, film or other recording from which the registration plate of the motor vehicle and the time and place of establishment of the violation are visually identifiable.

(2) A cautionary fine is imposed on a person who was the registered owner or authorised user of the motor vehicle at the time of commission of the misdemeanour.

(3) A cautionary fine imposed on an authorised user of a motor vehicle is not a punishment applicable for an offence, it shall not be entered in the punishment register and it shall not be relied on upon consideration of recurrence of offences or application of other legal consequences prescribed for the offence.

(4) The maximum rate of a cautionary fine is 190 euros. Cautionary fine rates for particular misdemeanours shall be established in the Traffic Act.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(5) In the case of a minor traffic misdemeanour, the body conducting extra-judicial proceedings may decide not to impose a cautionary fine and caution the person responsible for the motor vehicle in writing if the body finds that cautioning of the person responsible for the motor vehicle without imposing a fine is sufficient.

(6) Application of the written caution procedure pursuant to the procedure provided for in subsection (1) or (5) of this section terminates the misdemeanour proceeding. The body conducting extra-judicial proceedings shall resume the misdemeanour proceedings under expedited or general procedure on the bases provided for in subsection 54<sup>6</sup>(3) or (6) of this Code.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

### § 54<sup>2</sup>. Notice of fine

(1) In the case provided for in subsection 54<sup>1</sup>(1) of this Act, a notice of fine is sent to the person responsible for a motor vehicle which sets out:

- 1) the time and place of imposing the cautionary fine;
- 2) the name, registry code and address of the body conducting extra-judicial proceedings;
- 3) the given name, surname and position of the official of the body conducting extra-judicial proceedings who prepared the notice of fine;
- 4) if the addressee of the notice of fine is a natural person, his or her given name and surname, address of the residence, personal identification code or date of birth in the absence thereof;
- 5) if the addressee of the notice of fine is a legal person, the name and registry code of the person or, in the case of a foreign legal person, the numerical or letter combination equal to a registry code, and the address of the seat, telephone number and electronic mail address of the person;
- 6) a short description of the misdemeanour and the time and place of the commission of the misdemeanour;
- 7) the legal assessment of the misdemeanour;
- 8) the basis for imposition of the cautionary fine;
- 9) the amount of the cautionary fine.

(2) In addition to the information provided for in subsection (1) of this section, a notice of fine shall set out:

- 1) an explanation stating that a cautionary fine imposed on an authorised user of a motor vehicle is not a punishment applicable for an offence, it shall not be entered in the punishment register and it shall not be relied upon consideration of recurrence of offences or application of other legal consequences;
- 2) information stating that the cautionary fine must be paid within thirty days as of the receipt of the notice of fine; after the expiry of this term the cautionary fine shall be subject to compulsory execution;
- 3) information stating that the person responsible for the motor vehicle has the right to contest the notice of fine within thirty days as of the receipt of the notice of fine, and information of the procedure for contestation;
- 4) information stating that at the request of the person responsible for the motor vehicle, a copy shall be sent to the person of the photo, film or other recording by which the act was identified.

(3) A payment order which sets out the bank account number and the reference number shall be appended to the notice of fine.

(4) The official who prepares the notice of fine shall sign it. A notice of fine may be signed digitally.

(5) A notice of fine shall be prepared in two identical copies the first of which is sent to the person responsible for the motor vehicle and the other shall remain with the body conducting extra-judicial proceedings. If the notice of fine was signed digitally, the body conducting extra-judicial proceedings shall preserve an electronic copy of the notice of fine sent.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

### § 54<sup>3</sup>. Delivery of notices of fine

(1) A notice of fine shall be served on a natural person by post, by sending a registered letter at the address indicated in the population register or at another address of the person which is known to the body conducting the proceedings pursuant to subsection 41 (3) of this Act or by electronic means pursuant to subsection 41 (4) of this Act.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(2) If the person responsible for a motor vehicle does not reside at the address entered in the register and his or her actual whereabouts are unknown and the notice of fine cannot be delivered in any other manner, the body conducting extra-judicial proceedings may publish the notice of fine in the official publication *Ametlikud Teadaanded*.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(3) When a notice of fine is published in the publication *Ametlikud Teadaanded*, the given name and surname of the person responsible for a motor vehicle and his or her personal identification code, or where this is not possible, the date of birth instead of the personal identification code. A notice of fine is deemed to be delivered when 30 days have passed from the day of publication thereof in *Ametlikud Teadaanded* or the person confirms the receipt of the notice in the information system of *Ametlikud Teadaanded*.

[RT I, 19.03.2015, 1 - entry into force 06.04.2015]

(4) A notice of fine is served on a legal person, state and local government authorities and a legal person in public law by ordinary letter at the address entered in the register or by electronic means pursuant to subsection 41 (4) of this Act. When a notice of fine is served by electronic means, protection of the notice against third persons and confirmation of receipt of such notice of fine is not required. A document served on a legal person, state or local government authorities and a legal persons in public law at the address entered in the register or at the electronic mail address published in the register is deemed to be served when thirty days have passed since it was sent.

[RT I 2010, 17, 91 - entry into force 10.05.2010]

(5) A notice of fine shall be sent within five working days as of ascertaining a misdemeanour.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

#### **§ 54<sup>4</sup>. Payment of cautionary fine**

(1) A cautionary fine must be paid within thirty days as of the receipt of the notice of fine. A cautionary fine is deemed to be paid on time if it is received to the bank account specified in the notice of fine by the due date for payment.

(2) If the person responsible for a motor vehicle does not contest the notice of fine but at the same time fails to pay the cautionary fine by the due date, the body conducting extra-judicial proceedings shall submit the notice of fine to a bailiff for immediate compulsory execution on the bases and pursuant to the procedure provided in the Code of Enforcement Procedure.

(3) If the person responsible for a motor vehicle has paid the cautionary fine or it has been enforced, no one shall be punished for the same act by way of misdemeanour procedure.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

#### **§ 54<sup>5</sup>. Contestation of notice of fine**

(1) If the person responsible for a motor vehicle does not consent to the cautionary fine imposed, the person has the right to contest the notice of fine within thirty days as of the receipt of the notice of fine. In the case of contestation, the cautionary fine does not enter into force.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(2) An appeal against a notice of fine shall be filed in writing with the body conducting extra-judicial proceedings who prepared the notice of fine and it shall set out:

1) the body conducting extra-judicial proceedings who prepared the notice of fine and with which the appeal is filed;

2) if the appellant is a natural person, his or her given name, surname, address of the residence, telephone number and electronic mail address;

3) if the appellant is a legal person, the name and registry code of the person or, in the case of a foreign legal person, the numerical or letter combination equal to a registry code, and the address of the seat, telephone number and electronic mail address of the person;

4) in the case of a representative, the given name and surname, address of the seat, telephone number and electronic mail address of the representative of the appellant;

5) the name and address of the body conducting extra-judicial proceedings which imposed a cautionary fine;

6) the number and date of the notice of fine;

7) the content of and reasons for the request of the appellant.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(2<sup>1</sup>) An appeal shall be signed by the appellant.

[RT I, 14.02.2014, 1 - entry into force 24.02.2014]

(3) The person responsible for a motor vehicle who is a natural person shall indicate in the appeal, in the case he or she contests a notice of fine on the grounds that the motor vehicle was used by another person, the given name and surname and address of the residence, number of driving licence and date of birth or personal identification code of the person who used the motor vehicle at the time indicated in the notice of fine.

[RT I 2010, 17, 91 - entry into force 10.05.2010]

(4) The person responsible for a motor vehicle is released from the performance of the obligations provided for in subsection (3) of this section, if such person submits an official confirmation that a competent authority was informed prior to the time of commission of the misdemeanour specified in the notice of fine of theft, loss or destruction of the motor vehicle or its registration plate or the person submits evidence concerning the existence of circumstances which preclude unlawfulness.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(5) A legal person and the state, a local government or a legal person in public law shall set out in an appeal the given name and surname, address of the residence, number of driving licence and date of birth or personal identification code of the natural person who used the motor vehicle during the time specified in the notice of fine.

[RT I 2010, 17, 91 - entry into force 10.05.2010]

(6) A legal person and the state, a local government or a legal person in public law is released from the performance of the obligations provided for in subsection (5) of this section, if such person submits an official confirmation that a competent authority was informed prior to the time of commission of the misdemeanour specified in the notice of fine of theft, loss or destruction of the motor vehicle or its registration plate or the person submits evidence concerning the existence of circumstances which preclude unlawfulness.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

#### **§ 54<sup>6</sup>. Adjudication of appeal by body conducting extra-judicial proceedings**

(1) If an appeal of the person responsible for a motor vehicle is not in compliance with the requirements of subsection 54<sup>5</sup>(2) of this Code, the body conducting extra-judicial proceedings shall make a ruling on refusal to accept the appeal and shall grant a term for the appellant for elimination of the deficiencies.

If the address of the residence of the person responsible for the motor vehicle is not indicated in the appeal, the body conducting extra-judicial proceedings shall dismiss the appeal.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(2) The body conducting extra-judicial proceedings shall dismiss an appeal and return it by a ruling, if:

1) the appeal is filed after expiry of the term provided for in subsection 54<sup>5</sup>(1) of this Code and a request for restoration of the term has not been submitted or the body conducting extra-judicial proceedings has refused to restore the term;

2) the appeal is filed by a person who pursuant to subsection 54<sup>5</sup>(1) of this Code does not have the right to file an appeal;

3) the appellant has failed to eliminate the deficiencies contained in the appeal within the term granted pursuant to the procedure prescribed in subsection (1) of this section;

4) the appeal is based on the circumstances set forth subsection 54<sup>5</sup>(4) or (6) of this Code but the required confirmation or evidence is missing.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(3) If the person responsible for a motor vehicle submits the evidence specified in subsection 54<sup>5</sup>(4) or (6) together with the appeal, the body conducting extra-judicial proceedings may refuse to resume the misdemeanour proceedings and prepare a ruling on cancellation of the notice of fine and non-resumption of misdemeanour proceedings.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(4) If the person responsible for a motor vehicle indicates in the appeal the given name and surname, address of the residence, number of driving licence and date of birth or personal identification code of the natural person who used the motor vehicle during the time specified in the notice of fine, the body conducting extra-judicial proceedings shall send the notice of fine to the person specified by the person responsible for the motor vehicle.

[RT I 2010, 17, 91 - entry into force 10.05.2010]

(5) A notice of fine is delivered pursuant to § 54<sup>3</sup> of this Code and the contestation thereof is conducted pursuant to subsections 54<sup>5</sup>(1) and (2) of this Code.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(6) If the person specified by the person responsible for a motor vehicle contests the notice of fine, the body conducting extra-judicial proceedings shall resume the misdemeanour proceedings by a ruling or procedural act under expedited or general procedure. When imposing a punishment in resumed proceedings, the cautionary fine rate indicated in the notice of fine is not binding on the body conducting the proceedings.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(7) The body conducting extra-judicial proceedings shall send copies of the rulings specified in subsection (1), (2) or (3) of this section to the address of the residence of the person indicated in the appeal by the person responsible for a motor vehicle by ordinary letter or at the electronic mail address indicated in the appeal.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

#### **§ 54<sup>7</sup>. Specifications concerning proceedings of traffic misdemeanours committed by motor vehicles registered in other Member States of the European Union**

(1) In the case of traffic misdemeanours committed by a motor vehicle of another Member State of the European Union, with the exception of the United Kingdom of Great Britain and Northern Ireland and Denmark (hereinafter *Member State*), written caution procedure shall be applied taking into consideration the specifications arising from this section.

(2) In order to prepare and deliver a notice of fine, the body conducting extra-judicial proceedings shall make enquiries, for exchange of national registration data of vehicles of the Member State of the European Union, to the competent authority specified in subsection 200<sup>3</sup>(1) of the Traffic Act for obtaining information concerning the person responsible for the motor vehicle and the motor vehicle.

(3) A competent authority shall send the following information to the body conducting extra-judicial proceedings:

- 1) the given name, surname personal identification code or the date of birth in the absence thereof and the address of the residence of the natural person who is the registered owner of the motor vehicle or the responsible user thereof entered in the register;
- 2) the name and address of the seat of the legal person who is the registered owner of the motor vehicle or the responsible user thereof entered in the register;
- 3) the combination of letters and numbers on the registration plate of the motor vehicle;
- 4) motor vehicle identification number (VIN, chassis or frame number).

(4) When the body conducting extra-judicial proceedings has received from a competent authority the information specified in subsection (3) of this section concerning the person responsible for a motor vehicle, the body shall prepare a notice of fine and append a translation to it in one of the official languages of the Member State or prepare a notice of fine in one of the official languages of the Member State. If a copy of the photo by which the act was identified is appended to the notice of fine, the information specified in clause 54<sup>2</sup>(2) 4) of this Act shall not be indicated in it. The name of the legal person and the address of its seat shall be indicated in the notice of fine of the information specified in clause 54<sup>2</sup>(1) 5) of this Act.

(5) A notice of fine is sent within five working days as of the receipt of the information from a competent authority by ordinary letter at the address of the residence or seat of the person responsible for a motor vehicle. The notice of fine is deemed to be delivered when 30 days have passed from sending it.

(6) The person responsible for a motor vehicle has the right to contest a notice of fine on the grounds that the motor vehicle was used by another person by indicating in the appeal the given name and surname, address of the residence and personal identification code of the person who used the motor vehicle, or if this is unknown, his or her date of birth.

(7) If the person specified in subsection 54<sup>6</sup>(6) of this Code does not reside in Estonia, the body conducting extra-judicial proceedings shall refuse to resume the misdemeanour proceedings in the case this person contests the notice of fine, prepare a ruling on cancellation of the notice of fine and send information concerning this to the person who contested the notice of fine and is responsible for the motor vehicle.

(8) If the addressee of the notice of fine does not reside in Estonia, subsection 54<sup>4</sup>(2) of this Code shall not apply.

[RT I, 14.02.2014, 1 - entry into force 24.02.2014]

## **Division 2**

### **Expedited Procedure**

#### **§ 55. Application of expedited procedure**

(1) A body conducting extra-judicial proceedings may apply expedited procedure if the facts relating to the commission of a misdemeanour are explicit and the person subject to proceedings has been:

- 1) notified of his or her rights and obligations as prescribed in § 19 of this Code;
- 2) explained that a misdemeanour report is not prepared in expedited procedure;
- 3) provided with an opportunity to give testimony with regard to the commission of the misdemeanour, and the person has consented to the expedited procedure.

(2) By a decision made by expedited procedure:

- 1) a fine of up to 200 fine units may be imposed on a natural person;

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

- 2) a fine of up to 13,000 euros may be imposed on a legal person.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(3) Expedited procedure shall not be applied and general procedure shall be applied, if:

- 1) the person subject to proceedings does not consent to the expedited procedure or if he or she is 14 to 18 years of age or suffers from a mental disorder;

- 2) it is necessary to decide on confiscation, imposition of detention or deprivation of driving privileges as a principal punishment, or imposition of a supplementary punishment.

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(4) A body conducting extra-judicial proceedings shall collect evidence in expedited procedure pursuant to the provisions of Chapter 5 of this Code.

(5) Upon making a decision by way of expedited procedure, a body conducting extra-judicial proceedings shall adjudicate the issues listed in § 108 of this Code.

#### **§ 56. Testimony concerning commission of misdemeanour**

(1) Testimony of a natural person subject to proceedings who is a natural person and the testimony of the legal representative of a legal person subject to proceedings concerning the commission of a misdemeanour shall be sound and video recorded or recorded on the form of a decision made by expedited procedure or as a separate document. When the minutes are taken, the person subject to proceedings may write his or her testimony concerning the commission of the misdemeanour in own hand.

[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

(2) When a person subject to proceedings is interrogated, the following shall be recorded:

[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

- 1) the date and place of giving the testimony;
- 2) the name of the body conducting the extra-judicial proceedings who takes the testimony;
- 3) if the person subject to proceedings is a natural person, his or her given name, surname and personal identification code or, in the case of an alien or a person without a personal identification code, his or her place and date of birth, the name and number of his or her identity document, nationality, address of the residence, place of employment, telephone number and electronic mail address;
- 4) if the person subject to proceedings is a legal person, the name and registry code of the person or, in the case of a foreign legal person, the numerical or letter combination equal to a registry code, and the address of the seat, telephone number and electronic mail address of the person;
- 5) the given name and surname of the legal representative of the legal person subject to proceedings, the address of his or her residence or seat, his or her place of employment, telephone number and electronic mail address;

6) notification of the person subject to proceedings of the rights and obligations of the person pursuant to § 19 of this Code and of the specifications concerning expedited procedure pursuant to clauses 55 (1) 2) and 3) of this Code, whereas the person subject to proceedings shall certify by a separate signature on the minutes of the interrogation that he or she has been notified of such rights, obligations and specifications, or shall confirm it orally in the case the testimony is sound and video recorded;

[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

- 7) the testimony of the person subject to proceedings concerning commission of the misdemeanour;
- 8) the person's consent or refusal of consent to the expedited procedure, which consent shall be certified by a separate signature on the minutes or shall confirm it orally in the case the testimony is sound and video recorded.

[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

(2<sup>1</sup>) If the testimony of a person is recorded in a decision made by expedited procedure, the information specified in clauses (2) 6) and 8) of this section is set out and the person shall sign to confirm it in the decision made by expedited procedure.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(3) The minutes of interrogation shall be signed or an oral confirmation is made in the case of sound and video recording of the testimony by the natural person subject to proceedings or by the legal representative of the legal person subject to proceedings.

[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

(4) If a person specified in subsection (3) of this section refuses to give testimony, sign the minutes or make a confirmation, he or she is deemed to refuse consent to the expedited procedure. The refusal shall be noted in the minutes of interrogation or on the form of a decision made by expedited procedure or is sound and video recorded and the general procedure shall be commenced.

[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

#### **§ 57. Content of decision made by expedited procedure**

(1) A decision made by expedited procedure shall set out:

- 1) the date and place of making the decision;
- 2) the name, registry code and address of the body conducting extra-judicial proceedings;
- 3) the given name, surname and position of the official of the body conducting extra-judicial proceedings who made the decision;
- 4) the personal data of the person subject to proceedings pursuant to clause 109 4) or 5) of this Code;
- 5) the information stating whether the person subject to proceedings has been notified of the rights thereof and whether the person consents to the expedited procedure;
- 6) the place and time of commission of the misdemeanour;
- 7) a short description of the misdemeanour;

[RT I, 06.07.2013, 3 - entry into force 16.07.2013]

8) the evidence to prove the commission of the misdemeanour;

8<sup>1</sup>) the testimony of the person subject to proceedings concerning commission of the misdemeanour.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

- 9) the legal assessment of the misdemeanour: the title, section, subsection and clause of the Act;
- 10) the mitigating and aggravating circumstances;
- 11) the amount of the fine imposed on the person subject to proceedings or, in the case of application of subsection 63 (1) of the Penal Code, the amount of the fine pursuant to the provision of law which prescribes the most onerous punishment or, in the case of application of subsection 63 (3) of the Penal Code, the amounts of the fines for each separate misdemeanour;
- 12) payment of the fine in instalments pursuant to the provisions of subsections 66 (2) and (3) of the Penal Code;
- 13) how to proceed with the objects used as physical evidence and with other seized objects;
- 14) the decision concerning the procedure expenses;
- 15) information stating that the person subject to proceedings and the counsel of the person have the right to file an appeal against the decision with the county court within 15 days as of the receipt of the decision;
- 16) if the fine is not to be paid in instalments, information stating that the fine must be paid to a bank account within 15 days as of the receipt of the decision, setting out the name and code of the bank and the name of the holder and the number of the bank account to which the fine is to be paid;
- 16<sup>1</sup>) information stating that the cautionary fine may be paid in cash to the body conducting the extra-judicial proceedings if the cautionary fine is imposed for violation of the border regime or for unlawful crossing of the state border or temporary border line of the Republic of Estonia;
- 17) information stating that the decision shall be executed if the person does not pay the fine in full within 15 days after receipt of the decision or does not file an appeal against the decision with the county court.

(2) A decision shall be signed by the official of the body conducting the extra-judicial proceedings.

(3) A decision made by way of expedited procedure shall be prepared in two identical copies the first of which is given immediately after signing to the person subject to proceedings against a signature on the other copy of the decision. The person subject to proceedings shall indicate the date of receipt of the decision on the other copy of the decision.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Division 3 General Procedure**

### **Subdivision 1 General requirements**

#### **§ 58. Commencement of misdemeanour proceedings**

- (1) A misdemeanour proceeding is commenced by the first procedural act.
- (2) Upon performance of the first procedural act, the person subject to proceedings shall be notified of the rights and obligations thereof pursuant to § 19 of this Code.
- (3) In the case of violation of the requirements of law for which suspension of a special right is prescribed, the document certifying the special right shall be immediately taken away from the person subject to proceedings upon commencement of the misdemeanour proceedings and added to the materials concerning the misdemeanour matter.

#### **§ 59. Adjudication of notice concerning misdemeanour**

- (1) A notice concerning misdemeanour is a notice which describes the events, facts or activities in which elements of a misdemeanour may be present.
- (2) If a notice is submitted concerning a misdemeanour, the body conducting extra-judicial proceedings is required to commence misdemeanour proceedings within 15 days from receipt of the notice concerning misdemeanour or decide on refusal to commence misdemeanour proceedings and notify the person who submitted the notice concerning misdemeanour of refusal to commence misdemeanour proceedings.
- (3) A notice concerning refusal to commence misdemeanour proceedings need not state the reasons therefor if refusal to commence misdemeanour proceedings is based on § 29 of this Code and the notice concerning misdemeanour does not refer to any damage caused by the misdemeanour to the person submitting it.
- (4) After delivery of a notice concerning refusal to commence misdemeanour proceedings, the person who submitted the notice concerning misdemeanour may submit an appeal to the head of the body conducting

extra-judicial proceedings against refusal to commence misdemeanour proceedings pursuant to the procedure prescribed in § 76 of this Code.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

#### **§ 60. Summoning to body conducting extra-judicial proceedings**

(1) A person subject to proceedings and the witnesses shall be summoned to the body conducting the extra-judicial proceedings by a summons pursuant to the procedure provided for in §§ 40 and 41 of this Code.

(2) A summons shall set out that appearance is mandatory and that compelled attendance pursuant to subsection 43 (3) of this Code may be applied with regard to a person who has been summoned but fails to appear without good reason.

#### **§ 61. Referral of materials concerning misdemeanour matter to prosecutor if elements of criminal offence become evident in act**

(1) If an official of a body conducting extra-judicial proceedings finds in the course of the misdemeanour proceedings that the act contains elements of a criminal offence, the materials concerning the misdemeanour matter shall be immediately sent to a prosecutor for a decision on the commencement of criminal proceedings. If the body conducting extra-judicial proceeding is a pre-trial investigation authority, criminal proceedings shall be commenced without the materials being sent to the prosecutor. A decision on the commencement of criminal proceedings may be made until the making of the decision on the punishment for the misdemeanour.

(2) If a prosecutor, after examining the materials of a misdemeanour matter, decides not to commence criminal proceedings or terminates the criminal proceedings concerning the matter but there is reason to believe that the act contains elements of a misdemeanour, he or she shall immediately return the materials to the body conducting extra-judicial proceedings for resumption of the misdemeanour proceeding.

[RT I 2003, 26, 156 - entry into force 21.03.2003]

#### **§ 62. Disclosure of information concerning extra-judicial proceedings**

(1) Information concerning pre-trial proceedings may be disclosed before making of a decision in the interests of the misdemeanour proceeding, the public or a data subject only if disproportionate damage is not caused thereby to the misdemeanour proceeding, interests of the state or business secrets or, in particular in the case of disclosure of sensitive personal data, to the rights of data subjects or third persons.

(2) Disclosure of a decision made in extra-judicial proceedings after making of the decision is permitted on the terms prescribed by subsections 408<sup>1</sup>(2) and (3) of the Criminal Procedure Act, taking account of the differences of extra-judicial proceedings.

[RT I 2007, 12, 66 - entry into force 25.02.2007]

(3) A person who suffered direct proprietary damage due to a misdemeanour and his or her representative have the right to examine the decision made in the misdemeanour matter.

[RT I, 05.12.2017, 1 - entry into force 15.12.2017]

#### **§ 63. Joinder and severance of misdemeanour matters**

(1) If a person has committed several misdemeanours or if several persons have committed one and the same misdemeanour or several misdemeanours, the misdemeanour matters may be joined.

(2) Misdemeanour matters may be severed if severance does not prejudice the thoroughness and objectivity of the misdemeanour procedure.

(3) Misdemeanour proceedings are joined or severed by a ruling of the body conducting the extra-judicial proceedings or of the county court. A copy of a ruling on severance of misdemeanour matters shall be included in the files of the severed misdemeanour matters.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Subdivision 2 Collection of evidence**

#### **§ 64. Collection of evidence**

A body conducting extra-judicial proceedings shall collect evidence pursuant to the provisions of Chapter 5 of this Code.

#### **§ 65. Testimony of person subject to proceedings**

(1) Minutes of the testimony of a natural person subject to proceedings or the legal representative of a legal person subject to proceedings concerning the commission of a misdemeanour shall be taken on the form for the

minutes of interrogation, or in the misdemeanour report pursuant to clause 69 (2) 3) of this Code. The person subject to proceedings may write his or her testimony himself or herself in hand-writing.

(2) The minutes of interrogation shall set out:

- 1) The minutes of interrogation shall set out: the information listed in clauses 56 (2) 1) to 5) of this Code;
- 2) notification of the person subject to proceedings of the rights and obligations of the person pursuant to § 19 of this Code, whereas the person subject to proceedings shall certify by a separate signature on the minutes of the interrogation that he or she has been notified of such rights and obligations;
- 3) the testimony of the person subject to proceedings concerning commission of the misdemeanour.

(3) The minutes of interrogation shall be signed by the natural person subject to proceedings or by the legal representative of the legal person subject to proceedings.

(4) If a person specified in subsection (3) of this section refuses to give testimony or gives testimony but refuses to sign it, the official of the body conducting extra-judicial proceedings shall make a notation concerning the refusal in the minutes of the interrogation.

## **Subdivision 3**

### **Deciding on confiscation in course of misdemeanour proceedings**

#### **§ 66. Request by body conducting extra-judicial proceedings for decision on confiscation**

If the direct object of commission of a misdemeanour has been seized in the course of a misdemeanour proceeding and the lawful possessor of the object has not been identified, the body conducting the extra-judicial proceedings shall submit a reasoned request for a decision on confiscation to the county court if the body is not competent to decide on confiscation. The request shall be sent to the county court together with the misdemeanour file.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 67. Deciding on confiscation in course of misdemeanour proceedings**

(1) A county court shall adjudicate a request for confiscation specified in § 66 of this Code by a ruling made by way of a written proceeding without summoning the participants in the proceeding.

(2) In order to adjudicate a request, a county court may require the body which conducted the extra-judicial proceedings to submit additional materials.

(3) The participants in the proceedings, and the persons not participating in the proceedings, whose legitimate interests are restricted by a ruling specified in subsection (1) of this section have the right to receive a copy of the ruling and file an appeal against the court ruling pursuant to the procedure provided for in Chapter 16 of this Code.

(4) If a body conducting extra-judicial proceeding is competent to decide on confiscation and the direct object of commission of the misdemeanour has been seized in the misdemeanour proceeding but the lawful possessor of the object has not been identified, the body may decide on confiscation by a ruling made in the course of the misdemeanour proceeding.

(5) The participants in the proceedings and the persons not participating in the proceedings, whose legitimate interests are restricted by a ruling specified in subsection (4) of this section have the right to receive a copy of the ruling and file an appeal pursuant to the procedure provided for in § 76 of this Code.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Subdivision 4**

### **Misdemeanour report**

#### **§ 68. Preparation of misdemeanour report**

(1) In general procedure, a misdemeanour report shall be prepared on a misdemeanour.

(2) If a need arises to supplement evidentiary information or amend the legal assessment of a misdemeanour during preparation of a report, the report shall be supplemented.

(3) If a person has committed several misdemeanours, one report, or if necessary, several reports may be prepared.

(4) If several persons have jointly committed one misdemeanour, one report shall be prepared.  
[RT I 2003, 26, 156 - entry into force 21.03.2003]

#### **§ 69. Content of misdemeanour report**

(1) The introduction of a misdemeanour report shall set out:

- 1) the date and place of preparation;
- 2) the name, registry code and the address of the seat of the body conducting the extra-judicial proceedings;
- 3) the given name, surname, position, telephone number and electronic mail address of the official of the body conducting the extra-judicial proceedings;
- 4) the data of the person subject to proceedings pursuant to clause 56 (2) 3) or 4) of this Code;
- 5) the given name, surname, address of the residence, telephone number and electronic mail address of the legal representative of the natural person;
- 6) the given name, surname, position, address of the seat, telephone number and electronic mail address of the legal representative of the legal person;
- 7) the given name, surname and administrative address of the counsel, or information stating whether the person subject to proceedings requests the participation of the counsel in the proceedings;
- 8) information stating that the person subject to proceedings has been notified of the rights and obligations specified in § 19 of this Code.

(2) The main part of a misdemeanour report shall set out:

- 1) a short description of the misdemeanour and the time and place of the commission of the misdemeanour;
- 2) the legal assessment of the misdemeanour: the title, section, subsection and clause of the Act;
- 3) the testimony of the person subject to proceedings or a reference to the separate minutes taken of the testimony of the person;
- 4) the testimonies of the witnesses or a reference to the separate minutes taken of the testimonies of the witnesses;
- 5) information concerning the damage caused by the misdemeanour;
- 6) if the hearing of the misdemeanour matter falls under the jurisdiction of a court, information stating whether the person subject to proceedings wishes to participate in the hearing of the misdemeanour matter;
- 7) other evidence and information necessary for the adjudication of the misdemeanour matter.

(3) If it is necessary to amend the legal assessment of a misdemeanour entered in a misdemeanour report, the report shall be supplemented by an entry on the new legal assessment of the misdemeanour together with each date of amendment of the legal assessment and the signature of the official of the body conducting extra-judicial proceedings.

(4) If a report on the detention of a person has not been prepared, the final part of the misdemeanour report shall set out:

- 1) the duration of and basis for the detention, together with a reference to subsection 44 (1) of this Code;
- 2) the date and time of the detention;
- 3) a list of the objects seized from the person upon detention, and the characteristic features of the objects;
- 4) the petitions and requests of the person detained.

(5) Information necessary for conducting the proceedings concerning misdemeanours in certain fields may be added to a misdemeanour report.

(6) The final part of a misdemeanour report shall set out that the person subject to proceedings and the counsel of the person have the right to file objections and evidence concerning the misdemeanour proceedings with the body conducting the extra-judicial proceedings and examine the misdemeanour file at the body within 15 days as of the receipt of a copy of the misdemeanour report. At the request of the person subject to proceedings and with the consent of the body conducting extra-judicial proceedings, the term for examination of the misdemeanour file and filing of objections may be reduced.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(7) If the testimony of a person subject to proceedings or a witness has been entered in a misdemeanour report, the testimony shall be signed by the person subject to proceedings or the witness who gave the testimony. If the person subject to proceedings refuses to give testimony or gives testimony but refuses to sign it, the official of body conducting the extra-judicial proceedings shall make a notation concerning the refusal in the misdemeanour report.

(8) A misdemeanour report shall be signed by the official of the body conducting extra-judicial proceedings who prepared the report.

[RT I 2003, 26, 156 - entry into force 21.03.2003]

#### **§ 70. Service of copy of misdemeanour report on participants in proceedings and giving notice of time and place for examination of decision of body conducting extra-judicial proceedings**

(1) A copy of a misdemeanour report shall be served on a person subject to proceedings against signature. Upon service of a misdemeanour report, the person subject to proceedings shall be explained his or her right to file objections to the misdemeanour report and that the decision of the body conducting extra-judicial proceedings shall be made by way of written proceedings and the person subject to proceedings has the right to examine the

decision at the body conducting extra-judicial proceedings. It is also explained that a copy of the decision is sent to the e-mail address of the person subject to proceedings at request.  
[RT I, 19.03.2015, 1 - entry into force 01.09.2015]

(2) A participant in the proceedings shall certify receipt of a copy of a misdemeanour report by a signature on the report, accompanied by the date of receipt of the copy. If the participant in the proceedings refuses to certify receipt of a copy of the misdemeanour report by a signature, the official title of the body conducting the extra-judicial proceedings shall make a corresponding notation on the report, accompanied by the date of the refusal and his or her signature and position. In such case, the participant in the proceeding is deemed to have received a copy of the misdemeanour report on the date of refusal to accept the copy.

(3) If a copy of a misdemeanour report has been served on the counsel of a person subject to proceedings, the copy is deemed to be served also on the person subject to proceedings.

(3<sup>1</sup>) If the person subject to proceedings is 14 to 18 years of age, the body conducting extra-judicial proceedings shall immediately inform, at the choice of the person subject to proceedings, either his or her parent or another legal representative or guardian of the preparation of the misdemeanour report.  
[RT I 2010, 44, 258 - entry into force 19.07.2010]

(4) If adjudication of a misdemeanour matter is within the competence of a body conducting extra-judicial proceedings pursuant to law, the decision of the body conducting extra-judicial proceedings shall be available to the person subject to proceedings at the body conducting extra-judicial proceedings when 30 days have expired from service of a copy of the misdemeanour report on the person subject to proceedings. At the request of the person subject to proceedings and with the agreement of the body conducting proceedings, the term for examining of the decision on the misdemeanour matter and for service of the copy of the decision may be reduced. If the person subject to proceedings has expressed a wish upon service of the misdemeanour report or in his or her objection for receiving the decision to his or her e-mail address, a copy of the decision shall be sent to the requested address.  
[RT I, 19.03.2015, 1 - entry into force 01.09.2015]

(5) In the case provided for in subsection (4) of this section, the date on which the decision of the body conducting extra-judicial proceedings becomes available for examination at the body conducting extra-judicial proceedings and when the person subject to proceedings or his or her counsel may receive a copy of the decision shall be indicated in the misdemeanour report and a copy thereof upon service of the copy of the misdemeanour report on the person subject to proceedings. With the agreement of the person subject to proceedings, the body conducting extra-judicial proceedings may send a copy of the decision made to the e-mail address indicated by the person subject to proceedings or notify the person subject to proceedings of the decision made through the e-file system. Notification of the person subject to proceedings of the decision made or sending of a copy of the decision to the person subject to proceedings does not change the time limits for appeal provided for in § 114 of this Code.  
[RT I, 19.03.2015, 1 - entry into force 01.09.2015]

(6) The person subject to proceedings shall be explained upon service of a copy of a misdemeanour report that the term for appeal of the decision of the body conducting extra-judicial proceedings shall commence from the date when the decision of the body conducting extra-judicial proceedings is accessible by the person subject to proceedings at the body conducting extra-judicial proceedings.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

#### **§ 71. Sending misdemeanour file to county court for hearing of matter**

(1) If the hearing of a misdemeanour matter falls within the jurisdiction of a county court pursuant to § 83 of this Code, the body conducting the extra-judicial proceedings shall, within 20 days as of the receipt of a copy of the misdemeanour report by the person subject to proceedings or the counsel of the person, send the misdemeanour file together with the objections filed and the annexed materials to the county court for the hearing of the matter.

(2) If the hearing of a misdemeanour matter falls within the jurisdiction of a county court pursuant to § 83 of this Code and the person subject to proceedings has been detained pursuant to subsection 44 (1) of this Code, the measures provided for in clause 44 (2) 3) of this Code shall be applied.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Subdivision 5**

# Decisions in general procedure

## § 72. Making decision of body conducting extra-judicial proceedings

(1) If pursuant to law the hearing of a misdemeanour matter falls within the competence of a body conducting extra-judicial proceedings and the law does not prescribe hearing of the misdemeanour matter by a court, the body shall make a decision specified in § 73 of this Code by way of a written proceeding without summoning the participants in the proceedings, taking into account the testimony of the person subject to proceedings, the evidence collected in the matter, the objections filed and the annexed materials.

(2) Upon making a decision, a body conducting extra-judicial proceedings shall adjudicate the issues listed in § 108 of this Code.

## § 73. Decisions of bodies conducting extra-judicial proceedings in general procedure

(1) A body conducting extra-judicial proceedings makes:

1) decisions concerning imposition of fines or, as a principal punishment, withdrawal of the right to drive a vehicle, or fines and, as a supplementary punishment, withdrawal of the right to drive a vehicle or deprivation of right to access state secrets and classified information of foreign states or right to process state secrets and classified information of foreign states;

[RT I 2008, 54, 304 - entry into force 27.12.2008]

2) rulings on termination of misdemeanour proceedings on the bases provided for in § 29 or 30 of this Code.

(2) If the body conducting extra-judicial proceedings makes a ruling on the termination of misdemeanour proceedings concerning a minor who at the time of the commission of the unlawful act was not capable of guilt on the grounds of his or her age or was fourteen to eighteen years of age, the provisions of subsections 29 (2) or 30 (2) of this Code respectively shall be observed.

## § 74. Content of decision of body conducting extra-judicial proceedings

(1) A decision of a body conducting extra-judicial proceedings shall set out:

- 1) the date and place of making the decision;
- 2) the name, registry code and address of the body conducting extra-judicial proceedings;
- 3) the given name, surname and position of the official of the body conducting extra-judicial proceedings who made the decision;
- 4) the data of the person subject to proceedings pursuant to clause 109 4) or 5) of this Code;
- 5) the place and time of commission of the misdemeanour;
- 6) a short description of the misdemeanour;
- 7) the date of the misdemeanour report on which the decision is based, and the name of the person who prepared the report;
- 8) the reasons for disregarding the information contained in the objection;
- 9) the legal assessment of the misdemeanour: the title, section, subsection and clause of the Act;
- 10) the mitigating and aggravating circumstances;
- 11) the amount of the fine imposed on the person subject to proceedings or, in the case of application of subsection 63 (1) of the Penal Code, the amount of the fine pursuant to the provision of law which prescribes the most onerous punishment or, in the case of application of subsection 63 (3) of the Penal Code, the amounts of the fines for each separate misdemeanour;

11<sup>1)</sup> the term of deprivation of the person subject to proceedings of the right to drive a vehicle or the right to access state secrets and classified information of foreign states or the right to process state secrets and classified information of foreign states imposed as principal or supplementary punishment;

[RT I 2008, 54, 304 - entry into force 27.12.2008]

12) the decision on confiscation if the body conducting the extra-judicial proceedings is competent to decide on confiscation;

13) payment of the fine in instalments pursuant to the provisions of subsections 66 (2) and (3) of the Penal Code;

14) how to proceed with the objects used as physical evidence and with other seized objects;

15) the decision concerning the procedure expenses;

16) the procedure and term for appeal;

17) if the fine is not to be paid in instalments, information stating that the fine must be paid to a bank account in full within 15 days as of the date when the decision of the body becomes available for examination at the body, and the name and code of the bank and the name of the holder and the number of the bank account to which the fine is to be paid;

18) information stating that the decision concerning the fine shall be executed if the person subject to proceedings fails to pay the fine in full or the person or the counsel thereof does not file an appeal against the decision within 15 days after the date when the decision of the body becomes available for examination by the participants in the proceedings at the body;

19) information stating that the decision concerning the deprivation from the right to drive a vehicle or the right to access state secrets and classified information of foreign states and the right to process state secrets and classified information of foreign states imposed as a principal or supplementary punishment shall be executed if the person subject to proceedings or the counsel thereof does not file an appeal against the decision within 15 days after the date on which the decision of the body conducting extra-judicial proceedings becomes available

for examination by the participants in the proceedings at the body conducting extra-judicial proceedings and the participants in the proceedings may receive copies of the decision.  
[RT I 2008, 54, 304 - entry into force 27.12.2008]

(2) A decision shall be signed by the official of the body conducting extra-judicial proceedings who made the decision.

#### **§ 75. Ruling on termination of misdemeanour proceedings**

(1) The introduction of a ruling on termination of a misdemeanour proceeding prepared by an official of a body conducting extra-judicial proceedings shall contain the information prescribed in subsection 48 (2) of this Code.

(2) The main part of a ruling on termination of a misdemeanour proceeding shall set out:

- 1) the grounds for the procedural decision;
- 2) the basis for termination of the misdemeanour proceeding pursuant to § 29 or 30 of this Code.

(3) The final part of a ruling on termination of a misdemeanour proceeding shall set out:

1) the procedural decision;

2) the decision on confiscation if the body conducting the extra-judicial proceedings is competent to decide on confiscation;

3) how to proceed with the objects used as physical evidence and with other seized objects;

3<sup>1</sup>) deletion of the information collected in the misdemeanour matter on the basis of clauses 29 (1) 1) to 3) and 5) to 7) of the Code of Misdemeanour Procedure from the state register of fingerprints and the state DNA register upon termination of misdemeanour proceedings;

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

4) the procedure for appeal against the ruling pursuant to § 76 of this Code.

(4) A ruling shall be signed by the official of the body conducting extra-judicial proceedings who made the ruling.

(5) If the body conducting extra-judicial proceedings makes a ruling on the termination of misdemeanour proceedings concerning a minor who at the time of the commission of the unlawful act was not capable of guilt on the grounds of his or her age or was fourteen to eighteen years of age, the provisions of subsections 29 (2) or 30 (2) of this Code respectively shall be observed.

[RT I 2003, 26, 156 - entry into force 21.03.2003]

(5<sup>1</sup>) If any information was collected in the misdemeanour matter which shall be deleted from the state register of fingerprints or the state DNA register, the body conducting proceedings shall notify the Estonian Forensic Science Institute of termination of the criminal proceedings in a format which can be reproduced in writing.

[RT I, 04.07.2012, 1 - entry into force 01.08.2012]

(6) Participants in the proceedings, and persons not participating in the proceedings whose interests are concerned by a ruling may receive a copy of the ruling.

(7) A participant in the proceedings or a person not participating in the proceedings shall certify receipt of a copy of a ruling by a signature on the ruling, accompanied by the date of receipt of the ruling.

## **Subdivision 6**

### **Appeals against activities of bodies conducting extra-judicial proceedings**

#### **§ 76. Appeal against activities of body conducting extra-judicial proceedings**

(1) Participants in the proceedings and persons not participating in the proceedings have the right to file appeals against the activities of a body conducting extra-judicial proceedings with the head of the body until the decision is made in the matter by the body.

(2) An appeal against a ruling of a body conducting extra-judicial proceedings on termination of misdemeanour proceedings or on confiscation made in the misdemeanour proceedings may be filed by a person subject to the proceedings or a person not participating in the proceedings within 15 days as of the receipt of a copy of the ruling.

(3) An appeal specified in subsections (1) and (2) of this section shall be addressed to the head of the body conducting extra-judicial proceedings and sent at the address of the seat of the body conducting extra-judicial proceedings.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(4) An appeal shall set out:

- 1) the head of the body conducting extra-judicial proceedings as the addressee, and the name of the body conducting extra-judicial proceedings with which the appeal is filed;
- 2) the given name and surname, procedural status, and the address of the residence or seat of the appellant;
- 3) the ruling or procedural act contested, the date of making the ruling or performance of the procedural act, and the name of the person with regard to whom the ruling or procedural act is contested;
- 4) which part of the ruling or procedural act is contested;
- 5) the content of and reasons for the requests submitted in the appeal;
- 6) a list of the documents annexed to the appeal.

(5) Submission of an appeal against the activities of body conducting extra-judicial proceedings shall not suspend the appealed activity.

[RT I 2003, 26, 156 - entry into force 21.03.2003]

#### **§ 77. Adjudication of appeal by head of body conducting extra-judicial proceedings**

(1) The head of a body conducting extra-judicial proceedings or an official authorised by a legal instrument of the head of the body shall adjudicate the appeals against the activities of the body by way of a written proceeding within five days as of the receipt of the appeal.

(2) In the adjudication of an appeal, the head of the body conducting extra-judicial proceedings or the official authorised by a legal instrument of the head may, by a ruling:

- 1) deny the appeal;
- 2) satisfy the appeal in full or in part and recognise that the rights of the person were violated if the violation can no longer be eliminated;
- 3) annul the contested ruling or suspend the contested procedural act in full or in part, thereby eliminating the violation of a right.

(3) Denial of an appeal shall be reasoned.

(4) An appellant shall be notified of the right to file an appeal with a county court pursuant to § 78 of this Code.

(5) A ruling made upon adjudication of an appeal shall be immediately sent to the body conducting extra-judicial proceedings which made the contested ruling, and a copy of the ruling shall be sent to the appellant.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 78. Filing of appeals with county court**

(1) If a person does not consent to a ruling made in the adjudication of an appeal pursuant to subsection 77 (2) of this Code, and the contested activities of the body conducting extra-judicial proceedings have violated the rights or freedoms of the person, the person has the right to file an appeal with the county court.

(2) An appeal may be filed:

- 1) by a participant in the proceedings within ten days as of the receipt of the contested ruling;
- 2) by a person not participating in the proceedings within ten days as of the date when the person became or should have become aware of the contested ruling.

(3) An appeal shall be filed in writing in compliance with the requirements prescribed in subsection 76 (4) of this Code. The appeal shall be addressed to the county court and filed with the body conducting extra-judicial proceedings which made the contested ruling.

(4) A body conducting extra-judicial proceedings which receives an appeal shall forward the appeal together with the materials to a county court immediately.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 79. Hearing of appeals in county courts**

(1) A county judge shall hear an appeal within five days after the receipt of the appeal.

(2) An appeal shall be heard by way of a written proceeding, within the limits of the appeal and with regard to the person concerning whom it is filed.

(3) In the adjudication of an appeal, a county judge may:

- 1) deny the appeal;
- 2) satisfy the appeal in full or in part and recognise that the rights of the person were violated if the violation can no longer be eliminated;
- 3) annul the contested ruling or suspend the contested procedural act in full or in part, thereby eliminating the violation of a right.

(4) A court which receives an appeal may suspend the contested ruling or procedural act.

(5) A county court shall send a ruling made upon adjudication of an appeal to the body conducting extra-judicial proceedings which made the contested ruling or performed the contested procedural act and a copy of the ruling to the appellant.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 80. Discontinuance of appeal**

An appeal against the activities of a body conducting extra-judicial proceedings which is filed pursuant to § 76 or 78 of this Code may be discontinued until adjudication of the appeal.

## **Subdivision 7 Proceeding with matters in extra-judicial procedure**

#### **§ 81. Preparation of misdemeanour file and proceeding with matters in misdemeanour proceedings**

(1) Upon completion of an extra-judicial proceeding, the body conducting the extra-judicial proceedings shall prepare a misdemeanour file by misdemeanour the materials of the misdemeanour matter. For reasons of expediency, misdemeanour file may be without covers. The pages of a misdemeanour file shall be numbered.

(2) A body conducting extra-judicial proceedings shall proceed with misdemeanour matters pursuant to the document management procedure established for government agencies, taking into account the specifications provided for in this Code.

#### **§ 81<sup>1</sup>. E-File processing information system**

(1) The E-File processing information system (hereinafter *E-File system*) is a database within the state information system maintained for the processing of procedural information and personal data in misdemeanour proceedings the objective of which is:

- 1) to provide an overview of misdemeanour matters in which proceedings are conducted by bodies conducting extra-judicial proceedings and courts as well as misdemeanour proceedings which were not commenced;
- 2) to reflect information concerning acts performed in the course of misdemeanour proceedings;
- 3) to enable organisation of the activities of the bodies conducting proceedings;
- 4) to collect statistics related to crime which is necessary for the making criminal policy decisions;
- 5) to enable electronic forwarding of data and documents.

(2) The following information shall be entered in the database:

- 1) information concerning the misdemeanour matters in which proceedings are conducted, misdemeanour matters not commenced and terminated misdemeanour matters;
- 2) information concerning acts performed in the course of misdemeanour proceedings;
- 3) digital documents in the cases provided in this Code;
- 4) information concerning the bodies conducting proceedings, participants in the proceedings, persons at fault, experts and witnesses;
- 5) decision of a body conducting extra-judicial and a court.

(3) The E-File system shall be established and the statutes of the register shall be approved by the Government of the Republic.

(4) The chief processor of the E-File system is the Ministry of Justice. The authorised processor of the E-File system is the person appointed by the minister responsible for the area.

(5) The minister responsible for the area may issue regulations for organisation of the activities of the E-File system.

[RT I 2008, 28, 180 - entry into force 15.07.2008]

#### **§ 82. [Repealed - RT I 2008, 28, 180 - entry into force 15.07.2008]**

## **Chapter 11 HEARING OF MISDEMEANOUR MATTERS IN COUNTY COURTS**

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **Division 1**

# Competence to Hear Misdemeanour Matters and Preparation for Hearing

## § 83. Competence to hear misdemeanour matters

A misdemeanour matter shall be heard by a county judge if:

- 1) the county court is competent to hear the misdemeanour matter or decide on confiscation pursuant to law;
- 2) imposition of detention, sanction of a minor, or prohibition to keep animals is to be decided in the hearing of the misdemeanour matter.

[RT I, 05.12.2017, 1 - entry into force 01.01.2018]

## § 84. Sending misdemeanour file to county court for hearing of matter

If the hearing of a misdemeanour matter falls within the jurisdiction of a county court pursuant to § 83 of this Code, the body conducting extra-judicial proceedings shall send the misdemeanour file to a county court pursuant to the procedure provided for in subsection 71 (1) of this Code for the hearing of the matter.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## § 85. Preparation for hearing of misdemeanour matter

(1) During preparations for the court hearing of a matter, the county judge shall:

- 1) verify the jurisdiction over the misdemeanour matter;
- 2) ascertain the parties to the court proceedings and the witnesses, interpreters or translators and experts, and notify them of the time and place of the hearing of the matter;
- 3) ascertain the evidence to be examined in the court hearing and take measures for submission of the evidence in a court session;
- 4) adjudicate the hearing of a witness in another county court on the basis of a letter of request;
- 5) adjudicate the conduct of expert assessments, taking into account the opinions of the parties to the court proceeding;
- 6) adjudicate the requests submitted by the parties to the court proceeding.

(2) If a court finds that the adjudication of a matter falls within the competence of an administrative court and the administrative court has previously found that the adjudication of the same matter does not fall within its competence, a Special Panel formed by the Criminal Chamber and the Administrative Chamber of the Supreme Court shall determine pursuant to the procedure provided for in § 711 of the Code of Civil Procedure the court into whose competence the adjudication of the matter falls.

[RT I, 20.11.2014, 1 - entry into force 01.05.2015]

## Division 2 General Conditions for Hearing Misdemeanour Matters

## § 87. Limits for hearing misdemeanour matters

A misdemeanour matter shall be heard only with regard to the person subject to the proceedings and to the extent specified in the misdemeanour report.

## § 88. Maintenance of order at hearings of misdemeanour matters

(1) Participants in the proceedings and other persons present in a courtroom shall comply with the lawful orders of the county judge.

(2) A judge may impose a fine in the amount of up to 30 fine units on a person who interferes with or hinders the hearing of a misdemeanour matter, or remove him or her from the courtroom.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## § 89. Participation of person subject to proceedings in hearing of matter

(1) A person subject to proceedings has the right to participate in the hearing of the misdemeanour matter personally, together with a counsel or through a counsel.

(2) A county judge may require mandatory participation of the person subject to proceedings in the hearing of a misdemeanour matter if this is necessary in the interests of the misdemeanour proceeding.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## § 90. Hearing of misdemeanour matter without person subject to proceedings and counsel thereof

(1) If a person subject to proceedings and the counsel thereof have been notified of the place and time of the hearing of the matter and they have received the summons before the hearing of the matter but have not

requested adjournment of the hearing or the request for adjournment has been denied, the matter shall be heard without the person subject to proceedings or the counsel thereof.

(2) The hearing of a matter shall be adjourned by a ruling made in compliance with the provisions of subsection 93 (1) of this Code at a reasoned request of the person subject to proceedings or the counsel thereof.

(3) The hearing of a matter shall be adjourned by a ruling if the counsel of a person subject to proceedings who is 14 to 18 years of age or suffers from a mental disorder fails to appear at the session.

#### **§ 91. Participation of body conducting extra-judicial proceedings in hearing of misdemeanour matter**

(1) The participation of a body conducting extra-judicial proceedings in the hearing of a misdemeanour matter in a county court is mandatory and the body shall be notified of the mandatory participation in the summons sent to the body.

(2) If an official of a body conducting extra-judicial proceedings fails to appear at the hearing of a matter, the county judge shall adjourn the hearing of the matter and notify the head of the body in writing of the failure of the official to appear.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 92. Hearing of misdemeanour matter without witness or expert**

If a witness or expert fails to appear at the hearing of a matter, the county judge shall hear the opinions of the parties to the court proceeding and decide whether the hearing of the matter is possible.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 93. Adjournment of hearing of misdemeanour matter**

(1) The hearing of a misdemeanour matter shall be adjourned if:

- 1) the misdemeanour matter cannot be heard without the persons who have failed to appear in the session;
- 2) continuing of the session is precluded by any other good reason.

(2) Before adjournment of the hearing of a misdemeanour matter, the persons who have appeared at the session may be heard and they need not be summoned to a new session.

#### **§ 94. Formalisation of court rulings**

(1) A court shall formalise termination of a misdemeanour proceeding, compelled attendance, removal, and ordering of expert assessments by a ruling made in chambers pursuant to the provisions of § 48 of this Code.

(2) Court rulings not specified in subsection (1) of this section shall be formalised as procedural documents and included in the misdemeanour file or shall be made orally and entered in the minutes of the court session.

## **Division 3 Opening of Hearing of Misdemeanour Matter**

#### **§ 95. Commencement of hearing of misdemeanour matter**

The county judge commencing the hearing of a misdemeanour matter shall:

- 1) announce the title of the misdemeanour matter to be heard;
- 2) ascertain whether the persons summoned have appeared at the session, establish their identity and verify the authority of the counsels and representatives;
- 3) ascertain whether the parties to the court proceeding and the witnesses, interpreters or translators and experts who have failed to appear received a summons;
- 4) involve interpreters or translators, experts and witnesses pursuant to the provisions concerning criminal procedure;
- 5) announce his or her name and the names of the interpreters or translators and experts, and explain the rights of the parties to the court proceeding to such parties;
- 6) ascertain the requests and petitions of challenge of the parties to the court proceeding and adjudicate such requests and petitions.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Division 4**

# Examination by Court

## § 96. Commencement of examination by court

(1) A judge shall announce the commencement of an examination by the court and make a proposition to the body conducting extra-judicial proceedings to present the misdemeanour report.

(2) After presentation of a misdemeanour report, the judge shall explain the contents of the report to the person subject to proceedings and ask whether person confesses to the commission of the misdemeanour.

## § 97. Procedure for examination of evidence

A judge shall hear the opinions of the participants in the proceeding concerning the order of examination of evidence and make a corresponding ruling which shall be recorded in the minutes of the court session.

## § 98. Procedure for interrogation of person subject to proceedings

(1) The interrogation of a person subject to proceedings commences by the proposition of the judge to give testimony with regard to the circumstances on the basis of which the misdemeanour report was prepared.

(2) An official of a body conducting extra-judicial proceedings and the counsel may question the person subject to proceedings after he or she has given testimony.

(3) A court has the right to question the person subject to proceedings at every stage of examination by the court.

(4) A person subject to proceedings has the right to question the other parties to the court proceeding during the entire examination by court.

(5) If a matter is heard in the absence of the person subject to proceedings, the judge shall present the prior testimony of the person and the contents of his or her written petitions.

## § 99. Procedure for hearing witnesses

(1) Witnesses shall be heard individually in the absence of other witnesses who have not yet been heard. Before the hearing of a witness, his or her identity shall be established and his or her relationship with the person subject to proceedings shall be ascertained.

(2) A judge shall make a proposition to a witness to tell the court everything he or she knows concerning the misdemeanour matter.

(3) After a witness has given testimony, he or she shall be questioned by an official of the body conducting the extra-judicial proceedings, the person subject to proceedings and the counsel of the person.

(4) If a witness has been summoned to a court at the request of a participant in the proceedings, such participant shall be the first to question the witness.

(5) Questions may be submitted to a witness to clarify and supplement the testimony previously given by him or her. The judge is required to exclude leading questions and questions which are irrelevant to the misdemeanour matter. The judge has the right to question witnesses at every stage of examination by the court.

(6) A judge may confront witnesses with one another on his or her own initiative or at the request of a participant in the proceedings.

(7) Witnesses who have been heard shall stay in the courtroom until the end of examination by the court and shall not leave without the permission of the judge.

(8) If a witness fails to appear at the hearing of a matter, the county judge may disclose the testimony given by the witness in the extra-judicial proceedings.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## § 100. Examination of written evidence

Written evidence shall be disclosed and submitted to the parties to the court proceeding who participate in the hearing of the matter and, if necessary, to experts and witnesses.

## § 101. Inspection of physical evidence and scene of misdemeanour

(1) Physical evidence may be inspected at every stage of examination by a court on the initiative of the judge or at the request of the parties to the court proceeding. The parties to the court proceeding may submit petitions

to the court and the person subject to proceedings may give statements in connection with the inspection of physical evidence.

(2) A judge may conduct an on-site inspection of the scene of a misdemeanour and of the related physical evidence which cannot be brought to the court. The judge shall conduct the inspection in the presence of the parties to the court proceeding and, if necessary, of a witness or expert.

(3) The course and the results of an inspection shall be recorded in the minutes of the court session.

#### **§ 102. Expert assessments in hearings of misdemeanour matters**

(1) A judge may order an expert assessment at the request of a party to the court proceeding or at his or her own initiative.

(2) An expert participating in the hearing of a misdemeanour matter may examine the evidence necessary for the conduct of an expert assessment and, with the permission of the body conducting the proceedings, question the parties to the court proceeding and the witnesses with regard to the circumstances relevant to the conduct of the expert assessment.

#### **§ 103. Completion of examination by court**

(1) After examination of all the evidence relating to a misdemeanour matter, the judge shall ask the parties to the court proceeding whether they request further examination by the court.

(2) The court shall adjudicate the submitted requests by a ruling.

(3) After the performance of necessary additional procedural acts, the judge shall declare the examination by the court completed.

## **Division 5 Summations**

#### **§ 104. Procedure for summations**

(1) In summations, the parties to the court proceeding shall speak in the order determined by the court. The person subject to proceedings shall be the last to speak.

(2) The court shall not limit the duration of the summations but may stop a participant in the summations if he or she digresses from the facts established during examination by the court.

(3) The county judge shall announce the time of pronouncement of the decision after the summations.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Division 6 Minutes of court session**

#### **§ 105. Taking minutes of court sessions**

(1) Minutes shall be taken of a court session if a witness or expert is interrogated in the session or if so requested by a party to the court proceeding. If minutes are not taken of a court session, the requests of the parties to the court proceeding shall be included in the court judgment.

(2) The minutes shall set out:

- 1) the date and place of the session, and the time of the beginning and end of the session;
- 2) the name and composition of the court;
- 3) the names of the parties to the court proceeding, the clerk of the court session and of the interpreters or translators and experts;
- 4) the title of the misdemeanour matter subject to hearing;
- 5) explanation of the rights and obligations of the parties to the court proceeding and other persons to such parties and persons;
- 6) the names of the court activities in chronological order, and the conditions, course and results of the acts;
- 7) the petitions and requests and the results of adjudication thereof;
- 8) the titles of the rulings made in the court session;
- 9) the requests submitted by the parties in the summations;

- 10) the making of a court judgment or ruling in chambers;
- 11) the time of pronouncement of a court judgment or ruling, and explanation of the procedure for appeal;
- 12) the date when the decision becomes available in the court for examination by the parties to the court proceeding;
- 13) waiver of the right of appeal if notice is given of the waiver upon pronouncement of the court judgment.

(3) The judge and the clerk of a court session shall sign the minutes within three days after the court session. Amendments made to the minutes shall be certified by the signature of the judge and the clerk of the court session.

#### **§ 106. Comments concerning minutes of court session**

(1) The parties to a court proceeding have the right to submit their comments concerning the incorrectness or inaccuracy of the minutes of a court session within three days after the signing of the minutes. The comments shall be reviewed by the judge who, in the case of agreement with the comments, shall make corrections to the minutes of the court session and the corrections shall be certified by the signatures of the judge and the clerk of the court session.

(2) If a judge does not agree with the comments submitted, he or she shall make a ruling on the incorrectness of the comments. The parties to the court proceeding have the right to repeat such comments in an appeal filed against the court decision.

## **Division 7 Decisions**

#### **§ 107. Decisions of county courts**

[RT I 2005, 39, 308 - entry into force 01.01.2006]

(1) A county court makes:

[RT I 2005, 39, 308 - entry into force 01.01.2006]

1) judgments on imposition of a fine or detention, as a principal or supplementary punishment withdrawal of the right to drive a vehicle or as a supplementary punishment deprivation of the right to access state secrets and classified information of foreign states or the right to process state secrets and classified information of foreign states or on prohibition to keep animals;

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

2) court judgments on termination of misdemeanour proceedings on the bases provided for in clause 29 (1) 1) and § 30 of this Code.

(2) In the cases provided for in clauses 29 (1) 2) to 7) of this Code, a court shall make a ruling on termination of the misdemeanour proceeding. If the court makes a judgment or ruling on the termination of misdemeanour proceedings concerning a minor who at the time of the commission of the unlawful act was not capable of guilt on the grounds of his or her age or was fourteen to eighteen years of age, the provisions of subsections 29 (2) or 30 (2) of this Code respectively shall be observed.

(3) The court may add to a judgment or ruling, whereby a participant in the proceeding is ordered to pay an amount of money to the Republic of Estonia that arises from a claim which has not arisen from participation of the state or administrative body of the state in a proceeding as a participant in the proceeding, the data required for payment of the claim in a separate document.

[RT I, 21.06.2014, 11 - entry into force 01.07.2014]

(4) A list of the data required for the fulfilment of the claim specified in subsection (3) of this section and the technical requirements for formalising these shall be established by a regulation of the minister responsible for the area.

[RT I, 21.06.2014, 11 - entry into force 01.07.2014]

#### **§ 108. Issues to be adjudicated upon making of court judgment**

The following shall be ascertained in order to make a court judgment:

- 1) whether an act with the elements of a misdemeanour provided by law has been committed;
- 2) the legal assessment of the misdemeanour: the title, section, subsection and clause of the Act;
- 3) whether the misdemeanour was committed by the person subject to proceedings;
- 4) the unlawfulness and wrongfulness of the act;
- 5) whether mitigating or aggravating circumstances exist;
- 6) the type and category or term of the punishment;
- 7) how to proceed with regard to physical evidence and other seized objects;
- 8) whether to apply confiscation;
- 9) whether to impose a punishment pursuant to subsection 63 (1) or (3) of the Penal Code;
- 10) whether to terminate misdemeanour proceedings and to impose sanctions applicable on minors provided for in § 87 of the Penal Code;

[RT I, 05.12.2017, 1 - entry into force 01.01.2018]

11) how to adjudicate a request to compensate for damage caused in offence proceedings pursuant to the Compensation for Damage Caused in Offence Proceedings Act.

[RT I, 20.11.2014, 1 - entry into force 01.05.2015]

### **§ 109. Introduction of court judgment**

The introduction of a court judgment shall set out:

- 1) that the judgment is made on behalf of the Republic of Estonia;
- 2) the place and time of making the judgment;
- 3) the name of the court making the judgment, the given name and surname of the judge and of the clerk of the court session, and the given name and surname of the official of the body which conducted the extra-judicial proceedings, the counsel, interpreters or translators who participated in the session;
- 4) the given name, surname and personal identification code of a natural person subject to proceedings or, in the case of an alien or a person without a personal identification code, his or her place and date of birth and nationality, address of the residence and place of employment;
- 5) the name and registry code of a legal person subject to proceedings or, in the case of a foreign legal person, the numerical or letter combination equal to a registry code, and the address of the seat of the person;
- 6) the title, section, subsection or clause of the Act which prescribes the misdemeanour heard by the court.

### **§ 110. Main part of court judgment**

The main part of a court judgment shall set out:

- 1) the time and place of commission of the misdemeanour, the facts established in the session, and the supporting evidence;
- 2) the facts which were not established during the session, the evidence which is deemed to be unreliable, and the reason why the court finds it unreliable;
- 3) the facts which were declared to be a matter of common knowledge in the session and were used in making the judgment;
- 4) the unlawfulness and wrongfulness of the act;
- 5) the mitigating and aggravating circumstances;
- 6) the reasons for amending the legal assessment of the misdemeanour during the session and for imposing a punishment lesser than the minimum punishment provided by law;
- 7) the provisions of this Code which were the basis for making the court judgment.

### **§ 111. Final part of court judgment**

The final part of a court judgment shall set out:

- 1) the given name and surname of the natural person subject to proceedings or the name of the legal person subject to proceedings;
  - 2) the misdemeanour or misdemeanours of which the person subject to proceedings person is convicted, and the title, section, subsection and clause of the Act on which the conviction is based;
  - 3) the amount of the fine imposed on the person subject to proceedings or, in the case of application of subsection 63 (1) of the Penal Code, the amount of the fine pursuant to the provision of law which prescribes the most onerous punishment or, in the case of application of subsection 63 (3) of the Penal Code, the amounts of the fines for each separate misdemeanour;
  - 4) the term of the detention imposed on the person subject to proceedings and the time of commencement of the service of the detention;
  - 4<sup>1</sup>) the term of deprivation of the person subject to proceedings of the right to drive a vehicle imposed as a principal or supplementary punishment, or of the right to access state secrets and classified information of foreign states or the right to process state secrets and classified information of foreign states imposed as a supplementary punishment, or of prohibition to keep animals;
- [RT I, 12.07.2014, 1 - entry into force 01.01.2015]
- 5) payment of the fine in instalments pursuant to the provisions of subsections 66 (2) and (3) of the Penal Code, or service of the detention in part pursuant to the provisions of subsections 66 (1) and (3) of the Penal Code;
  - 6) the decision concerning confiscation;
  - 7) how to proceed with regard to physical evidence and other seized objects;
  - 8) the decision concerning the procedure expenses;
  - 8<sup>1</sup>) a decision on a request to compensate for damage caused in offence proceedings pursuant to the Compensation for Damage Caused in Offence Proceedings Act;
- [RT I, 20.11.2014, 1 - entry into force 01.05.2015]
- 9) the procedure and term for appeal;
  - 10) information stating that the fine must be paid to a bank account within the term for appeal against the judgment, as of the date when the court judgment becomes available in court for examination by the parties to the court proceedings, and the name and code of the bank and the name of the holder and the number of the bank account to which the fine is to be paid;

[RT I 2003, 26, 156 - entry into force 21.03.2003]

11) information stating that the court judgment shall be executed if the person subject to proceedings fails to pay the fine in full or the person or the counsel thereof does not file an appeal against the judgment within the term for the appeal, as of the date when the court judgment becomes available for examination by the parties to the court proceeding in the court.

[RT I 2003, 26, 156 - entry into force 21.03.2003]

### **§ 112. Ruling on termination of misdemeanour proceedings**

(1) In the cases provided for in subsection 107 (2) of this Code, a county judge shall make a ruling on termination of the misdemeanour proceeding pursuant to the provisions of subsections 48 (2) to (4) of this Code. The ruling shall state the decision on a request to compensate for damage caused in offence proceedings pursuant to the Compensation for Damage Caused in Offence Proceedings Act.

[RT I, 20.11.2014, 1 - entry into force 01.05.2015]

(2) Participants in the proceedings, and persons not participating in the proceedings whose interests are concerned by a ruling provided for in subsection (1) of this section may receive a copy of the ruling.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 113. Pronouncement of court judgment and final part thereof, and explanation of right of appeal**

(1) A judge shall pronounce a court judgment at the time announced pursuant to subsection 104 (3) of this Code.

(2) A court may prepare the final part of a court judgment as a separate procedural document and explain the main grounds for the judgment orally upon pronouncement of the judgment.

(3) If a person subject to proceedings is not proficient in the language of the proceedings, the final part of the court judgment and the explanations of the judge shall be translated for him or her.

(4) After pronouncement of a court judgment or the final part thereof, the judge shall:

1) in the case only the final part of the court judgment is pronounced, announce the date on which the court judgment becomes available for examination by the parties to the court proceeding in court and the parties may receive copies of the court judgment, whereas the date shall be recorded in the minutes of the court session or, if minutes are not taken, in the final part of the court judgment;

2) explain the procedure for appeal against the court judgment pursuant to subsection 137 (3) of this Code and the right of the parties to the court proceeding to waive the right of appeal immediately. The waiver shall be recorded in the minutes of the session or, if minutes are not taken, in the final part of the court judgment and certified by the signature of the person waiving the right of appeal;

3) explain that if a party to a court proceeding intends to exercise the right of appeal, the party must notify the county court thereof in writing within seven days as of the pronouncement of the final part of the court judgment, except in the case prescribed in subsection 137 (1<sup>1</sup>) of this Code.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(5) A court shall, pursuant to the provisions of § 41 of this Code, send a copy of the decision to a party of the court proceeding who did not participate in the pronouncement of the decision.

(6) If all parties to the court proceedings waive their right of appeal pursuant to the procedure prescribed in clause (4) 2) of this section or if none of the parties to the court proceedings gives notice, by the due date prescribed in clause (4) 3) of this section, of their wish to exercise the right of appeal, the court judgment shall contain only the information specified in §§ 109 and 111 of this Code.

(7) A court judgment and the final part thereof shall be included in the misdemeanour file.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Chapter 12 APPEAL PROCEEDINGS IN COUNTY COURTS**

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **Division 1 Appeal to County Court against Decisions of Bodies Conducting Extra-judicial Proceedings**

#### **§ 114. Right of appeal to county court and term of appeal**

(1) A participant in the proceedings has the right to file an appeal with a county court against the following decisions of the body which conducted the extra-judicial proceedings:

- 1) a decision made by way of expedited procedure pursuant to subsection 55 (2) of this Code;
  - 2) a decision made by way of the general procedure pursuant to subsection 73 (1) of this Code.
- [RT III 2008, 24, 160 - entry into force 16.05.2008, judgment of Supreme Court *en banc* No. 3-1-1-88-07 dated 16.05.2008 declares to be in conflict with the Constitution and repeals clause 114 (1) 2) of the Code of Misdemeanour Procedure in the part where it does not allow a person not participating in the proceeding to file an appeal with a county court against a decision made pursuant to subsection 73 (1) of the Code of Misdemeanour Procedure in general procedure by which the means of transport belonging to the person not participating in the proceeding is confiscated.]

(2) A decision on cautioning made pursuant to § 54 or a notice of fine issued pursuant to 54<sup>2</sup> of this Code is not subject to appeal.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

(3) Appeals against a decision of a body conducting extra-judicial proceedings which is made by way of expedited procedure provided for in clause (1) 1) of this section shall be filed with a county court within 15 days as of the receipt of the decision by the person subject to proceedings.

(4) Appeals against a decision of a body conducting extra-judicial proceedings which is made by way of the general procedure provided for in clause (1) 2) of this section shall be filed with a county court within 15 days as of the date when the decision became available for examination by the participants in the proceedings at the body.

(5) During a term of appeal, the misdemeanour file is kept at the body which conducted the extra-judicial proceedings and shall not be disclosed. The participants in the proceeding may examine the misdemeanour file and make excerpts therefrom or request copies to be made of the contents of the file for a charge.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 115. Requirements for appeal against decision of body conducting extra-judicial proceedings**

(1) An appeal against a decision of a body conducting extra-judicial proceedings shall be filed in writing and shall set out:

- 1) the name of the court with which the appeal is filed;
- 2) if the appellant is a natural person, his or her given name, surname, address of the residence, telephone number and electronic mail address;
- 3) if the appellant is a legal person, the name and registry code of the person or, in the case of a foreign legal person, the numerical or letter combination equal to a registry code, and the address of the seat, telephone number and electronic mail address of the person;
- 4) if the appellant has a counsel, the given name and surname of the counsel and the address, telephone number and electronic mail address of the seat of the counsel;
- 5) the name and address of the body conducting extra-judicial proceedings which made the decision;
- 6) the number and date of the decision of the body conducting extra-judicial proceedings and the given name and surname of the natural person subject to proceedings or the name of the legal person subject to proceedings with regard to whom the contested decision was made;
- 7) which part of the decision is contested;
- 8) the content of and reasons for the requests of the appellant;
- 9) the persons whose appearance at a session is requested, and evidence to be examined in court at the request of the appellant.

(2) An appeal shall be filed together with one copy of the appeal to all persons participating in the proceedings.

(3) An appellant shall set out the following in the appeal:

- 1) whether the appellant wishes to participate in the court session;
- 2) if he or she does not have a counsel, whether he or she requests the participation of a counsel in the proceedings.

(4) An appeal shall be signed by the appellant. If an appeal is signed by a counsel, his or her authorisation document shall be annexed to the appeal if such document is not included in the misdemeanour file.

(5) The following shall be annexed to an appeal:

- 1) a copy of the decision of a body conducting extra-judicial proceedings against which the appeal is filed;
- 2) evidence;

- 3) the names and addresses of the witnesses whose hearing is requested;
- 4) other documents considered necessary by the appellant.

#### **§ 116. Requirement to submit misdemeanour file and sending file to county court**

(1) After receiving an appeal against a decision which a body conducting extra-judicial proceedings has made by way of expedited procedure pursuant to subsection 55 (2) of this Code or by way of the general procedure pursuant to subsection 73 (1) of this Code, the county court shall immediately request the body to submit the misdemeanour file to the court.

(2) A body conducting extra-judicial proceedings shall send a misdemeanour file requested by a county court to the court immediately.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Division 2 Pre-trial Proceedings**

#### **§ 117. Acts in pre-trial proceedings**

(1) In pre-trial proceedings, a county judge shall:

- 1) verify the jurisdiction over the matter and compliance with the requirements of §§ 114 and 115 of this Code;
- 2) refuse to accept or hear the appeal on the bases provided for in § 118 of this Code;
- 3) terminate the misdemeanour proceeding on the basis provided for in § 119 of this Code, or
- 4) adjudicate the matter by way of a written proceeding pursuant to § 120 of this Code.

(2) If an appeal is not adjudicated pursuant to clauses (1) 2) to 4) of this section, the judge shall ascertain the persons to be summoned to the court session, the limits of the court hearing arising from the appeal, and the evidence to be examined, adjudicate the requests submitted in the appeal, send copies of the appeal to the parties to the court proceeding, and refer the matter for hearing pursuant to § 121 of this Code.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 118. Non-acceptance of appeal and refusal to hear appeal in pre-trial proceedings**

(1) If an appeal is not in compliance with the requirements of § 115 of this Code, the county judge shall make a ruling on refusal to accept the appeal and shall grant a term for the appellant for elimination of the deficiencies.

(2) A county judge shall make a ruling on refusal to hear an appeal and shall send a copy of the ruling to the appellant together with the appeal if:

- 1) the appeal is filed after expiry of the term provided for in subsection 114 (3) or (4) of this Code and a request for restoration of the term has not been submitted or the county court has refused to restore the term;
- 2) the appeal is filed by a person who pursuant to subsection 114 (1) of this Code does not have the right to file an appeal;
- 3) the appellant has failed to eliminate the deficiencies contained in the appeal within the term granted pursuant to the procedure prescribed in subsection (1) of this section;
- 4) the appeal is discontinued before the beginning of the court session.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 119. Termination of misdemeanour proceedings under circumstances precluding misdemeanour procedure**

(1) A county judge may annul a decision of a body conducting extra-judicial proceedings by a ruling without conducting a court session or summoning the participants in the proceedings and terminate the misdemeanour proceeding solely on the basis of the appeal if he or she finds that in the extra-judicial proceedings the proceedings were not terminated under the circumstances precluding misdemeanour proceedings pursuant to § 29 of this Code.

(2) A copy of a ruling specified in subsection (1) of this section shall be sent to the participants in the proceedings. Persons not participating in the proceedings whose interests are concerned by the ruling may receive a copy thereof.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 120. Adjudication of matter by written proceedings**

(1) A county judge may adjudicate an appeal by a written proceeding without holding a court session and make the decision pursuant to the provisions of § 132 of this Code if the court has sent a copy of the appeal to the other party to the court proceeding and has ascertained the position of the other party with regard to the appeal, and the parties to the court proceeding have declared in the appeal or a response to the appeal that they do not wish to participate in the court session.

(2) If a county court finds in a written proceeding that the matter should be adjudicated in a court session, the court shall order a court session.

(3) If a party to a court proceeding submits new evidence to a county court together with an appeal and the court accepts the evidence, the matter may be adjudicated by a written proceeding only if the parties to the court proceeding do not request a court session to be held for examining the new evidence.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 121. Referral of appeal for hearing by county court**

(1) A ruling of a county court on referral of an appeal for court hearing shall set out:

- 1) the place and time of the court session;
- 2) the given names and surnames of the natural persons or the names of the legal persons to be summoned to the court session;
- 3) whether the matter is to be heard in a public court session or in camera;
- 4) appointment of a counsel pursuant to § 22 of this Code;
- 5) the results of adjudication of the requests.

(2) An appeal shall not be filed against a ruling specified in subsection (1) of this section concerning denial of a request but the request may be submitted again in the court hearing.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 122. Summoning to court session**

The parties to a court proceeding shall be summoned to a session by a summons pursuant to the provisions of §§ 40 and 41 of this Code.

### **Division 3 Hearing of Appeals in County Courts**

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 123. Procedure for hearing appeals in court**

(1) County courts shall hear appeals pursuant to the provisions of this Code which govern the hearing of misdemeanour matters in court, taking into account the specifications provided for in Divisions 3 and 4.

(2) A county court shall hear a misdemeanour matter in its entirety, regardless of the limits of the appeal filed, and shall verify the factual and legal circumstances on the basis of which the body which conducted the extra-judicial proceedings made its decision.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 124. Opening of court session**

(1) A court shall announce the matter to be heard and the name of the person who filed the appeal.

(2) A court shall commence the hearing of an appeal by performing the acts provided for in § 95 of this Code.

#### **§ 125. Adjournment of hearing of appeal**

(1) At the reasoned request of a party to a court proceeding, the county judge may adjourn the hearing of an appeal once for a period of up to one month pursuant to § 42 of this Code. The county judge may adjourn the hearing of an appeal for the same term if the need to require submission of additional evidence emerges in the hearing of the appeal.

(2) A court may adjourn the hearing of an appeal at the request of a participant in the proceedings or on its own initiative until the entry into force of a judgment of the Supreme Court in a matter adjudicated by the Supreme Court by way of a constitutional review proceeding if such judgment may have an effect on the validity of the piece of legislation of general application which is to be applied in the misdemeanour matter concerned.

(3) [Repealed -RT I, 05.12.2017, 1 - entry into force 15.12.2017]

#### **§ 126. Participation of appellant and of official of body conducting extra-judicial proceedings in court hearing of appeal**

(1) An appellant and an official of a body conducting extra-judicial proceedings shall participate in the hearing of the appeal in court if the court considers their participation necessary.

(2) If an appellant fails to appear at the hearing of the appeal although the appellant was notified of the obligation to participate in the court hearing of the appeal in the summons sent to the appellant and the hearing of the appeal is not been adjourned pursuant to § 125 of this Code, the court shall make a ruling on refusal to hear the appeal.

[RT I, 05.12.2017, 1 - entry into force 15.12.2017]

(2<sup>1</sup>) If a counsel of an appellant has appeared in the case specified in subsection (2) of this section to the hearing of a matter, the court shall give an opportunity to the counsel to apply for hearing of the appeal without the participation of the appellant. In the case of denial of the application, the hearing of the appeal shall be adjourned once according to subsection 125 (1) of this Code.

[RT I, 05.12.2017, 1 - entry into force 15.12.2017]

(3) The failure of an official of a body conducting extra-judicial proceedings to appear at the court hearing of an appeal shall not hinder the hearing of the appeal.

### **§ 127. Discontinuance of appeal**

(1) An appellant has the right to discontinue the appeal in whole or in part until the end of the court hearing.

(2) A petition for discontinuance of an appeal shall be submitted to a county court in writing or orally in a court hearing. A written petition shall be included in the misdemeanour file and an oral petition shall be recorded in the minutes of the court session and certified by the signature of the appellant on the minutes.

(3) A person subject to proceedings has the right to discontinue an appeal filed by the counsel of the person if the participation of the counsel in the misdemeanour proceeding is not mandatory.

(4) If a county court establishes incorrect application of substantive law or a material violation of the law on misdemeanour procedure whereby the situation of the person subject to proceedings has been aggravated, the court shall not accept discontinuance of the appeal.

(5) If an appeal is discontinued before the court hearing of the appeal, the hearing of the appeal shall be refused on the basis of a ruling. If an appeal is discontinued during court hearing, the proceedings shall be terminated by a ruling.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 128. Procedure for examination by court**

(1) A court shall present the appealed part of a decision of a body conducting extra-judicial proceedings, the contents of and the grounds for the requests submitted in the appeal, and the contents of any other documents submitted to the court together with the appeal.

(2) A court shall explain the right to discontinue the appeal pursuant to § 127 of this Code and the consequences of the discontinuance to the appellant and ask whether he or she will proceed with the appeal or discontinue the appeal in whole or in part.

(3) A court shall examine the evidence annexed to an appeal pursuant to §§ 97 to 103 of this Code.

### **§ 129. Termination of examination of appeal by court**

(1) After examining all the evidence in a matter, the county judge shall ask the persons participating in the court hearing whether they would like to submit any requests.

(2) A court shall adjudicate requests by a ruling.

(3) After adjudication of requests, the county judge shall terminate the court hearing of the matter and open the summations.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 130. Summations in court hearing of appeal**

(1) In summations, the appellant shall be heard first, followed by the other participants in the proceeding in the order determined by the court.

(2) The court shall not limit the duration of the summations but may stop a participant in the summations if he or she digresses from the facts established during examination by the court.

(3) The county judge shall announce the time of pronouncement of the decision after the summations.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 131. Minutes of court session**

The court hearing of an appeal shall be recorded in the minutes of the court session taken pursuant to the provisions of subsections 105 (2) and (3) of this Code.

## **Division 4 Making of Court Judgment**

### **§ 132. Decisions of county courts in adjudication of appeals**

A county court may, by a court judgment:

- 1) refuse to amend a decision of a body conducting extra-judicial proceedings, and deny the appeal;
- 2) annul a decision of a body conducting extra-judicial proceedings in full or in part and make a new decision if this does not aggravate the situation of the person subject to proceedings;
- 3) annul a decision of a body conducting extra-judicial proceedings and terminate the misdemeanour proceedings on the bases provided for in § 29 or 30 of this Code.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 133. Issues to be decided in adjudication of appeal**

In order to adjudicate an appeal, a court shall ascertain whether:

- 1) the misdemeanour matter contains circumstances which would preclude misdemeanour procedure pursuant to § 29 of this Code;
- 2) the act of which the person subject to proceedings is accused occurred;
- 3) the act was committed by the person subject to proceedings;
- 4) the act is a misdemeanour and the legal assessment of the act is correct;
- 5) the punishment for the misdemeanour was imposed by a competent body conducting extra-judicial proceedings;
- 6) the body which conducted the extra-judicial proceedings in the matter acted in compliance with the law on misdemeanour procedure;
- 7) the punishment was imposed on the person subject to proceedings in compliance with the bases for the imposition of the punishment;
- 8) the misdemeanour proceeding is subject to termination on the bases provided for in § 30 of this Code;
- 9) whether to terminate misdemeanour proceedings and to impose sanctions applicable on minors provided for in § 87 of the Penal Code;

[RT I, 05.12.2017, 1 - entry into force 01.01.2018]

10) how to adjudicate a request to compensate for damage caused in offence proceedings pursuant to the Compensation for Damage Caused in Offence Proceedings Act.

[RT I, 20.11.2014, 1 - entry into force 01.05.2015]

### **§ 134. Judgment of county court**

(1) A county court shall make a court judgment pursuant to § 107 and §§ 109 to 111 of this Code, taking into account the specifications prescribed in subsections (2) and (3) of this section.

[RT I, 21.06.2014, 11 - entry into force 01.07.2014]

(2) The introduction of a judgment made by a county court shall set out:

- 1) the appealed decision;
- 2) the contents of the decision made in the extra-judicial proceedings, to the extent necessary for the making of a court judgment, and the requests of the appellant.

(3) The final part of a judgment made by a county court shall set out the decision provided for in clauses 132 1) to 3) of this Code.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 135. Pronouncement of court judgment and final part thereof and explanation of right of appeal in cassation**

(1) A judge shall pronounce a court judgment at the time announced pursuant to subsection 130 (3) of this Code.

(2) A court may prepare the final part of a court judgment as a separate procedural document and explain the main grounds for the judgment orally upon pronouncement of the judgment.

(3) If a person subject to proceedings is not proficient in the language of the proceedings, the final part of the court judgment and the explanations of the judge shall be translated for him or her.

(4) After pronouncement of a court judgment or the final part thereof, the judge shall:  
1) in the case only the final part of the court judgment is pronounced, announce the date on which the court judgment becomes available for examination by the parties to the court proceeding in court and the parties may receive copies of the court judgment, whereas the date shall be recorded in the minutes of the court session or, if minutes are not taken, in the final part of the court judgment;  
2) explain the procedure for appeal against the court judgment pursuant to §§ 155 and 156 of this Code and the right of the parties to the court proceeding to waive the right of appeal in cassation immediately. The waiver shall be recorded in the minutes of the session and certified by the signature of the person waiving the right;  
3) if a party to a court proceeding intends to exercise the right of appeal in cassation, the party must notify the county court thereof in writing within seven days as of the pronouncement of the final part of the court judgment, except in the case prescribed in subsection 156 (1<sup>1</sup>) of this Code.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(5) A court shall, pursuant to the provisions of § 41 of this Code, send a copy of the decision to a party of the court proceeding who did not participate in the pronouncement of the decision.

(6) If all of the participants in the proceedings waive their right of appeal in cassation pursuant to the procedure prescribed in clause (4) 2) of this section or if none of the participants gives notice, by the due date prescribed in clause (4) 3) of this section, of their wish to exercise the right of appeal in cassation, the court judgment shall contain only the information specified in §§ 109 and 111 of this Code.

(7) A court judgment and the final part thereof shall be included in the misdemeanour file.

(8) The judgments of the county courts shall not be contested by way of appeal procedure.

(9) An appeal in cassation may be filed against a judgment of a county court pursuant to Division 1 of Chapter 14 of this Code.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Chapter 13**

### **APPEAL PROCEEDINGS**

#### **Division 1**

#### **Appeal to Circuit Court**

##### **§ 136. Right of appeal**

(1) The parties to a court proceeding have the right to file an appeal against the judgment of a county court made in the hearing of a misdemeanour matter pursuant to subsection 107 (1) of this Code.

(2) An appeal shall not be filed against a judgment made by a county court in the hearing of an appeal pursuant to § 132 of this Code.

(3) The party to a court proceeding who files an appeal is the appellant in the appeal proceeding.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

##### **§ 137. Term for appeal**

(1) If a party to a court proceeding intends to exercise the right of appeal, the party must notify the county court thereof in writing within seven days as of the pronouncement of the final part of the court judgment, except in the case prescribed in subsection (1<sup>1</sup>) of this section.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(1<sup>1</sup>) If a party to court proceedings gives notification of the intention to exercise the right of appeal during the term specified in subsection (1) of this section and does not waive it, the remaining parties to the court proceedings have the right of appeal regardless of whether they themselves have given notification of the intention to exercise the right of appeal.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(2) A county court shall give written notification to a party to a court proceeding of the intention of the other party to exercise the right of appeal or waive the exercise of the right of appeal after submission of the notification.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(3) An appeal shall be filed with a circuit court within 15 days as of the date when the judgment became available for examination by the parties to the court proceeding in the court pursuant to clause 113 (4) 1) of this Code.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(4) If, in adjudication of a misdemeanour matter, a court declares legislation of general application which is to be applied pursuant to the conclusion of a court judgment to be in conflict with the Constitution and refuses to apply the legislation of general application, appeals shall be filed within ten days as of the pronouncement of the decision made by the Supreme Court by way of constitutional review concerning the legislation of general application which the court refused to apply.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(5) At the request of an appellant, the court may restore a term for appeal by a ruling if the court finds that the term was allowed to expire for good reason. Restoration may be applied for within 14 days as of the day when the impediment ceased to exist.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(6) The restoration of a term for appeal shall be adjudicated by the ruling of a circuit court which is not subject to appeal.

(7) An appellant shall be notified of a ruling on the restoration of or refusal to restore a term for appeal.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 138. Requirement to submit misdemeanour file and examination of file**

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(1) Immediately after receipt of an appeal, a circuit court shall require the county court which conducted proceedings in the matter to submit the misdemeanour file. After receipt of a request to submit a misdemeanour file, the county court shall immediately send it to the circuit court.

(2) The parties to court proceedings may examine misdemeanour files at the county court until the file is sent to the circuit court, make excerpts therefrom and request copies to be made of the contents of the file for a charge.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

### **§ 139. Appeal**

(1) An appeal shall be filed in writing and shall set out:

- 1) the name of the circuit court with which the appeal is filed;
- 2) if the appellant is a natural person, the given name, surname, address of the residence, telephone number and electronic mail address of the person;
- 3) if the appellant is a legal person, the name and registry code of the person and, in the case of a foreign legal person, the numerical or letter combination equal to a registry code, and the address of the seat, telephone number and electronic mail address of the person;
- 4) if the appellant has a counsel, the given name and surname of the counsel and the address of the seat, telephone number and electronic mail address of the counsel;
- 5) the name of the county court whose judgment is appealed, and the number and date of the judgment;
- 6) the given name and surname of the natural person subject to proceedings or the name of the legal person subject to proceedings with regard to whom the judgment is contested;
- 7) which part of the judgment is contested;
- 8) the content of and reasons for the requests of the appellant;
- 9) the persons whose appearance at a session is requested, and the evidence to be verified at the request of the appellant.

(2) An appeal may be based on:

- 1) the evidence examined by the county court;
- 2) the evidence concerning which the request for examination was denied by the county court;
- 3) the evidence not submitted to the county court if the failure to submit the evidence earlier is justified. If the appellant requests hearing of witnesses who were already heard in the county court, the appellant shall justify the relevance of their repeated hearing and pay the costs relating to the summoning of the witnesses.

(3) An appeal shall set out:

- 1) whether the appellant wishes to participate in the court session;
- 2) if he or she does not have a counsel, whether he or she requests the participation of a counsel in the proceedings.

(4) An appeal shall be filed together with one copy of the appeal to all parties to the court proceeding.

(5) An appeal shall be signed by the appellant. If an appeal is signed by a counsel, his or her authorisation document shall be annexed to the appeal if such document is not in the misdemeanour file.

(6) The following shall be annexed to an appeal:

- 1) evidence in proof of the appeal;

- 2) the names and addresses of the witnesses whose hearing is requested;
- 3) other documents considered necessary by the appellant.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 140. Notification of appeal**

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(1) A circuit court shall send copies of an appeal to the parties to the court proceeding within three days as of the receipt of the appeal.

(2) The parties to a court proceeding have the right to:

- 1) examine the misdemeanour file in the circuit court and make excerpts from the written evidence contained in the file and request the court office to make copies of such evidence for a charge;
- 2) submit a written objection to the appeal to the circuit court until the commencement of the court session.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

## **Division 2 Pre-trial Proceedings in Circuit Court**

#### **§ 141. Acts in pre-trial proceedings in circuit court**

(1) In pre-trial proceedings, the judge shall:

- 1) verify the right of appeal, the term for appeal and compliance of the appeal with the requirements of §§ 136, 137 and 139 of this Code;
- 2) refuse to accept the appeal on the basis of the provisions of subsection 142 (1) of this Code;
- 3) refuse to hear the appeal on the basis of the provisions of subsection 142 (2) of this Code;
- 4) send the misdemeanour matter to the county court for a new hearing on the basis of the provisions of § 143 of this Code;
- 5) terminate the misdemeanour proceeding on the basis of the provisions of subsection 144 (1) of this Code;
- 6) adjudicate the matter by way of a written proceeding pursuant to § 145 of this Code.

(2) If an appeal is not adjudicated pursuant to clauses (1) 2) to 6) of this section, the judge shall ascertain the persons to be summoned to the court session, the limits of the court hearing arising from the appeal, and the evidence to be examined, adjudicate the requests submitted in the appeal, summon the parties to the court proceeding to a court session pursuant to §§ 40 and 41 of this Act, and refer the matter for hearing pursuant to § 121 of this Code.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 142. Non-acceptance of appeal and refusal to hear appeal**

(1) If an appeal is not in compliance with the requirements of § 139 of this Code, the circuit court judge shall make a ruling on refusal to accept the appeal and shall grant a term for the appellant for elimination of the deficiencies.

(2) A circuit court judge shall make a ruling on refusal to hear an appeal and shall send a copy of the ruling to the appellant together with the appeal if:

- 1) the appeal is filed after expiry of the term provided for in subsection 137 (3) of this Code and a request for restoration of the term has not been submitted or the judge has refused to restore the term;
- 2) the appeal is filed by a person who pursuant to subsection 136 (1) of this Code does not have the right to file an appeal;
- 3) the appeal is not filed against a court judgment prescribed in subsection 136 (1) of this Code;
- 3<sup>1</sup>) the appellant fails to notify the county court of the intention to exercise the right of appeal in writing within the term prescribed in clause 113 (4) 3) of this Code, unless the notification was not mandatory;
- 4) the appellant has failed to eliminate the deficiencies contained in the appeal within the term granted pursuant to the procedure prescribed in subsection (1) of this section;
- 5) the appeal is discontinued before the beginning of the court hearing.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 143. Annulment of court judgment upon establishment of material violation of law on misdemeanour procedure in pre-trial proceedings and sending misdemeanour matter to county court for new hearing**

(1) If a circuit court judge establishes material violation of the law on misdemeanour procedure, the judge may annul the judgment of a county court by a ruling solely on the basis of an appeal without conducting a court session and summoning the parties to the court proceeding and send the misdemeanour matter to a county court for a new hearing by a different court panel.

(2) A copy of a ruling specified in subsection (1) of this section shall, within three days after preparation of the ruling, be served on or delivered against signature to the parties to the court proceeding whose interests are concerned by the ruling.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 144. Termination of misdemeanour proceedings under circumstances precluding misdemeanour procedure**

(1) A county judge may annul a judgment of a county court by a ruling without conducting a court session or summoning the participants in the proceedings and terminate the misdemeanour proceedings solely on the basis of an appeal if he or she finds that the proceedings were not terminated under circumstances precluding misdemeanour proceedings pursuant to § 29 of this Code.

(2) A copy of a ruling specified in subsection (1) of this section is sent to the participants in the proceedings, whereas the persons not participating in the proceedings whose interests are concerned by the ruling may also receive a copy thereof.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 145. Adjudication of matter by written proceedings**

(1) A circuit court judge may adjudicate an appeal by a written proceeding without holding a court session and make the decision pursuant to the provisions of § 153 of this Code if the court has sent a copy of the appeal to the other party to the court proceeding and ascertained the position of the other party concerning the appeal, and the parties to the court proceeding have declared in the appeal or a response to the appeal that they do not wish to participate in the court session.

(2) The position of the other party to a court proceeding need not be ascertained pursuant to the procedure provided for in subsection (1) of this section if the circuit court makes a decision specified in clause 151 (1) 1) of this Code.

(3) If a circuit court finds in a written proceeding that the matter should be adjudicated in a court session, the court shall order a court session.

(4) If a party to a court proceeding submits new evidence to the circuit court together with an appeal and the court accepts the evidence, the matter may be adjudicated by a written proceeding only if the parties to the court proceeding do not request a court session to be held for examining the new evidence.

## **Division 3 Court Hearing in Circuit Court**

#### **§ 146. Procedure and term for court hearing**

(1) Circuit courts shall conduct court hearings of misdemeanour matters pursuant to §§ 97 to 103 and 124 to 131 of this Code, taking into account the specifications provided for in this Division.

(2) A circuit court shall hear a misdemeanour matter within the limits of the appeal filed, except if it becomes evident that a material violation of the law on misdemeanour procedure or incorrect application of substantive law has aggravated the situation of the person subject to proceedings.

(3) If it becomes evident that material violation of the law on misdemeanour procedure or incorrect application of substantive law has aggravated the situation of a person subject to proceedings, the circuit court shall extend the limits of the hearing of the misdemeanour matter to all persons subject to the proceedings concerning the same misdemeanour regardless of whether an appeal has been filed with regard to them.

(4) The parties to a court proceeding do not have the right to exceed the limits of an appeal in the court hearing of the appeal.

#### **§ 147. Jurisdiction of circuit court**

(1) A circuit court may, by a court judgment:

- 1) refuse to amend the judgment of the county court, and deny the appeal;
- 2) refuse to make substantive amendments to the judgment of the county court, and make corrections thereto;
- 3) amend the main part of the judgment of the county court by excluding facts presented therein;
- 4) annul the judgment of the county court in full or in part and make a new court judgment on the basis of the provisions of § 151 of this Code.

(2) A circuit court may, by a ruling:

- 1) annul the judgment of a county court on the grounds provided for in § 148 of this Code and refer the misdemeanour matter for a new hearing by a different panel of the county court;
- 2) annul the judgment of the county court in full or in part and terminate the misdemeanour proceeding on the basis of the provisions of § 29 or 30 of this Code.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 148. Grounds for annulment of court judgment in appeal procedure**

A circuit court shall annul the judgment of a county court on the following grounds:

- 1) the partiality or insufficiency of the proceedings;
- 2) incorrect application of substantive law according to § 149 of this Code;
- 3) material violation of the law on misdemeanour procedure according to § 150 of this Code;
- 4) non-conformity of the punishment or other sanction with the gravity of the misdemeanour or the personality of the person subject to proceedings.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 149. Incorrect application of substantive law**

Substantive law has been applied incorrectly if:

- 1) a provision which should have been applied has not been applied;
- 2) a provision which should not have been applied has been applied.

#### **§ 150. Material violation of law on misdemeanour procedure**

(1) The law on misdemeanour procedure has been materially violated if:

- 1) a misdemeanour proceeding has not been terminated under the circumstances provided for in § 29 of this Code;
- 2) a body without the right to conduct proceedings has made the decision in a misdemeanour proceeding;
- 3) a decision has been made with regard to a person who has not been notified of the place and time of hearing the matter;
- 4) the counsel representing the person subject to proceedings pursuant to the procedure provided for in § 22 of this Code did not participate in the proceedings;
- 5) the body conducting the proceedings has not signed the judgment;
- 6) a misdemeanour report has not been prepared in the matter although preparation of such report is prescribed by this Code;
- 7) the decision of the body conducting the proceedings has not been reasoned although a reasoned decision is prescribed by this Code;
- 8) the conclusions of the final part of the judgment of the body conducting the proceedings are not in conformity with the facts established with regard to the subject of proof;
- 9) the misdemeanour matter has been heard without an interpreter or translator in a language in which the person subject to proceedings is not proficient;
- 10) minutes have not been taken of the hearing of the misdemeanour matter or a court session although taking of the minutes is prescribed by this Code, or the minutes have not been signed by the judge or the clerk of the court session.

(2) A court may deem any other violation of the law on misdemeanour procedure to be material if such violation results in an unlawful or unjustified court judgment.

#### **§ 151. Making of new court judgment in circuit court**

(1) A circuit court may, by a court judgment made on the basis of an appeal or, in the case of establishment of incorrect application of substantive law, regardless of the content of the appeal:

- 1) annul the judgment of the county court and terminate the misdemeanour proceeding on the basis of the provisions of § 29 or 30 of this Code;
- 2) find the person subject to proceedings not guilty of some of the misdemeanours and impose a lesser punishment, or refuse to amend the punishment;
- 3) convict the person subject to proceedings of a lesser misdemeanour and impose a lesser punishment, or refuse to amend the punishment;
- 4) annul the punishment imposed by the judgment of a county court and impose a lesser punishment on the person subject to proceedings.

(2) If a circuit court establishes incorrect application of a provision of substantive law, the court shall hear the misdemeanour matter also with regard to the other persons subject to the proceedings in the same matter regardless of whether they have filed an appeal.

(3) On the basis of an appeal of a body conducting extra-judicial proceedings, a circuit court may:

- 1) convict the person subject to proceedings of a more serious misdemeanour than the misdemeanour of which the person was convicted by the county court and impose a more onerous punishment, or refuse to amend the punishment;
- 2) annul the judgment of the county court concerning termination of the misdemeanour proceedings and make a judgment of conviction;

3) annul the punishment imposed by the judgment of the county court and impose a more onerous punishment on the person subject to proceedings.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 152. Sending misdemeanour matter to county court for new hearing**

If material violation of the law on misdemeanour procedure is established in the course of a court hearing and such violation inevitably results in the annulment of the judgment of the county court, the circuit court shall, by a ruling, annul the judgment of the county court and send the misdemeanour matter to the county court for a new hearing by a different court panel.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 153. Judgment of circuit court**

(1) A circuit court shall make a court judgment pursuant to § 107 and §§ 109 to 111 of this Code, taking into account the specifications prescribed in subsections (2) to (4) of this section.  
[RT I, 21.06.2014, 11 - entry into force 01.07.2014]

(2) The introduction of a judgment of a circuit court shall set out:

- 1) the appealed court judgment;
- 2) the content of the appealed part of the judgment of the county court, and the requests of the appellant.

(3) The final part of a judgment of a circuit court shall set out the conclusions of the court pursuant to the provisions of §§ 147 and 151 of this Code.

(4) If a circuit court refuses to amend a judgment of a county court pursuant to clause 147 (1) 1) or 2) of this Code:

- 1) the court is not required to repeat in its judgment the facts set out in the main part of the judgment of the county court, but may add the reasoning of the circuit court, if necessary;
- 2) the court may decide to include in its judgment only the introduction, final part and such provisions of the procedural law which were the basis for making the judgment.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 154. Pronouncement of circuit court judgment and final part thereof, and explanation of right of appeal in cassation**

(1) After the summations, the court shall announce the time or day when the court decision will be available for the parties to the proceedings at circuit court.

(2) A judgment of a circuit court or the final part thereof shall be pronounced pursuant to the provisions of subsections 135 (2) to (7) of this Code.

[RT I 2003, 83, 557 - entry into force 01.01.2004]

## **Chapter 14 CASSATION PROCEEDINGS**

### **Division 1 Appeal to Supreme Court**

#### **§ 155. Right of appeal in cassation**

(1) On the basis of the provisions of § 157 of this Code, a party to a court proceeding has the right to file an appeal in cassation:

- 1) against a judgment of a county court made on the basis of the provisions of § 132 of this Code;
- 2) if the right of appeal has been exercised with regard to the party;
- 3) if the circuit court has made one of the judgments specified in subsection 147 (1) of this Code.

(2) The counsel, who is an advocate, of the person subject to proceedings, the body which conducted the extra-judicial proceedings and its representative, who is an advocate, have the right to file an appeal in cassation.

(3) For the purposes of a cassation proceeding, the body which conducted the extra-judicial proceedings or the advocate representing the party to the court proceeding who files an appeal in cassation is the appellant in cassation.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **§ 156. Term for cassation**

(1) If a party to a court proceeding intends to exercise the right of appeal in cassation, the party shall give notification to the county court or the circuit court thereof in writing within seven days as of the pronouncement of the final part of the court judgment, except in the case specified in subsection (1<sup>1</sup>) of this section.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(1<sup>1</sup>) If a party to court proceedings gives notification of the intention to exercise the right of appeal in cassation during the term specified in subsection (1) of this section and does not waive it, the remaining parties to the court proceedings have the right of appeal in cassation regardless of whether they themselves have given notification of the intention to exercise the right of appeal in cassation.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(2) A county court or a circuit court shall give written notification to a party to court proceeding of the intention of the other party to exercise the right of appeal in cassation or waive the exercise of the right of appeal in cassation after submission of the notification.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(3) An appeal in cassation is submitted to the Supreme Court in writing within 30 days as of making the judgment public.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(4) [Repealed - RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(4<sup>1</sup>) If, in adjudication of a misdemeanour matter, a county court or circuit court declares legislation of general application which is to be applied pursuant to the final part of a court judgment to be in conflict with the Constitution and refuses to apply the legislation of general application, the term for submission of appeals in cassation shall be calculated as of the pronouncement of the decision made by the Supreme Court by way of constitutional review concerning the legislation of general application which the court refused to apply.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(4<sup>2</sup>) A term for cassation shall suspend upon submission of an application for state legal aid. In such case the term for cassation shall recommence as of the preparation of the ruling on adjudication of an application for state legal aid.  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(5) If a term for cassation is violated, the Supreme Court shall, by a ruling, return the appeal in cassation without hearing.

(6) At the request of an appellant in cassation, the Supreme Court may restore the term for cassation if the Court finds that the term was allowed to expire for good reason. Restoration may be applied for within 14 days as of the day when the impediment ceased to exist.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(6<sup>1</sup>) Restoration of the term or refusal to restore the term shall be formalised by a ruling of the Supreme Court.  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

## **§ 157. Grounds for appeal in cassation**

The grounds for an appeal in cassation are:

- 1) incorrect application of substantive law according to § 149 of this Code;
- 2) material violation of the law on misdemeanour procedure according to § 150 of this Code.

## **§ 158. Appeal in cassation**

(1) Appeals in cassation shall be in typewritten form. An electronic copy of an appeal in cassation shall be added to the appeal.  
[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(2) An appeal in cassation shall set out:

- 1) the given name and surname of the appellant in cassation and the address, telephone number and electronic mail address of the seat of the appellant in cassation;
- 2) the name of the county or circuit court which made the appealed court decision, and the number and date of the decision;
- 3) the given name and surname or name, the address of the residence or seat and the telephone number and electronic mail address of the party to the court proceeding in whose interests the appeal in cassation is filed;
- 4) the evidence already examined by the court on the basis of which the appellant in cassation proves that substantive law has been applied incorrectly or the law on misdemeanour procedure has been materially violated;
- 5) additional documents which the appellant in cassation considers necessary to submit in cassation procedure in order to establish material violation of the law on misdemeanour procedure;

6) the content of and reasons for the requests of the appellant in cassation, the basis for the appeal in cassation according to § 157 of this Code and a reference to the relevant provisions of substantive law or the law on misdemeanour procedure and to the provision of substantive law or the law on misdemeanour procedure which has been violated;

7) a list of the documents annexed to the appeal in cassation.

8) justification of the necessity of oral proceedings if the appellant in cassation applies for oral proceedings.  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(3) The following shall be annexed to an appeal in cassation:

- 1) the authorisation document of the appellant in cassation if such document is not in the file;
- 2) copies of the appeal in cassation for the parties to the court proceeding.

(4) An appellant in cassation shall sign the appeal and indicate the date of preparation of the appeal in the appeal.

(5) An appellant in cassation may amend and supplement a submitted appeal in cassation until the end of the term for cassation, and also extend the appeal in cassation to the parts of the court judgment which were initially not appealed. Upon amendments to appeal in cassation, the provisions concerning appeals in cassation shall be observed.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

### **§ 159. Requirement to submit misdemeanour file and examination of file**

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(1) Immediately after receipt of an appeal in cassation, the Supreme Court shall require the county or circuit court which conducted proceedings in the matter to submit the misdemeanour file. After receiving a request for delivery, the circuit court shall immediately send the misdemeanour file to the Supreme Court.

(2) The parties to a court proceeding have the right to examine the misdemeanour file in the county court or circuit court until the file is sent to the Supreme Court.

(3) After the end of cassation proceedings, the Supreme Court shall return the court file to the court which conducted proceedings in the matter.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

## **Division 2 Pre-trial Proceedings in Supreme Court**

### **§ 160. Acceptance of appeal in cassation**

(1) After receipt of an appeal in cassation which conforms to the requirements, the Supreme Court shall send a copy thereof to the party to the court proceeding whose interests are concerned by the appeal in cassation and inform such person of the following circumstances:

- 1) the time of receipt of the appeal in cassation by the Court;
- 2) the obligation of the person to respond to the appeal in cassation within the term set by the court;
- 3) the mandatory contents of the response.

(2) The Supreme Court may request the position of a party to a court proceeding in a specific issue.

(3) Within a reasonable period of time after the expiry of the term for giving response to an appeal in cassation, the Supreme Court shall decide on acceptance of an appeal in cassation or refusal to accept it on the basis of the misdemeanour file without summoning the participants in the proceedings.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(4) If an appeal in cassation is manifestly justified or manifestly unjustified, the decision on acceptance of the appeal in cassation may be made without sending the appeal in cassation to other persons or before the expiry of the term specified in subsection (3) of this section.

(5) An appeal in cassation shall be accepted if:

- 1) the allegations made in the appeal in cassation give reason to believe that the court has applied substantive law incorrectly or has materially violated the law on misdemeanour procedure;
- 2) the appeal in cassation contests the correctness of application of substantive law or requests annulment of a court judgment due to material violation of law on misdemeanour procedure, and a judgment of the Supreme Court is essential for the uniform application of law or elaboration of law.

(6) Acceptance of an appeal in cassation or refusal to accept an appeal in cassation shall be formalised by a ruling of the Supreme Court without setting out any reasons.

(7) The results of adjudication of requests for acceptance of appeals in cassation shall be immediately published on the website of the Supreme Court indicating the number of the court case, names of the participants in the proceeding and the legal assessment of the misdemeanour which form the content of the misdemeanour report. In the case of adjudication of requests for acceptance of appeals in cassation submitted in closed proceedings, only the result of adjudication of the request and the number of the court case together with a reference to closed proceedings shall be published on the website. Refusal of acceptance for processing on the basis that the appeal in cassation did not comply with the requirements provided by law and was therefore returned shall not be published on the website. The data of adjudication of requests for acceptance of appeals in cassation for processing shall be removed from the website when 30 days have expired from the communication of adjudication of the request.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(8) If an appeal in cassation is not accepted, the appeal in cassation and the ruling on non-acceptance shall be included in the misdemeanour file which shall be returned to the county court. Upon non-acceptance of an appeal in cassation, the basis for non-acceptance shall be indicated in the ruling. A copy of the ruling shall be sent to the person subject to proceedings if the person has no counsel in the court proceedings.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(9) Upon acceptance of an appeal in cassation, the Supreme Court may suspend, in whole or in part, the execution of the judgment made by the county court or circuit court in the hearing of an appeal filed with the county or circuit court.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

### **§ 160<sup>1</sup>. Non-acceptance of petition for review**

If an omission hindering the hearing of cassation exists and the omission can obviously be eliminated, the court shall set the appellant in cassation a reasonable term by a ruling on elimination of the omission and shall hitherto refuse to accept the cassation.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

### **§ 161. Non-acceptance of appeal in cassation by Supreme Court**

The Supreme Court shall, by a ruling, refuse to review an appeal in cassation if:

- 1) the appeal in cassation is filed after expiry of the term for cassation provided for in § 156 of this Code and a request for restoration of the term has not been submitted or the Supreme Court has refused to restore the term;
- 2) the appeal in cassation has been filed by a person who pursuant to subsection 155 (3) of this Code does not have the right to file such appeal;
- 3) the appellant in cassation has not eliminated the deficiencies contained in the appeal within the specified term and has not justified such failure;
- 4) the appellant in cassation fails to notify the county court or circuit court of the intention to exercise the right of appeal in cassation in writing within the term prescribed in clause 135 (4) 3) of this Code, unless the notification was not mandatory;

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

- 5) the appeal is discontinued before the beginning of the court hearing.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 162. [Repealed - RT I, 23.02.2011, 1 - entry into force 01.09.2011]**

### **§ 163. Examination of appeal in cassation**

A party to a court proceeding has the right to examine the misdemeanour file and an appeal in cassation in the Supreme Court through an advocate representing the party, make copies of the appeal in cassation and the documents contained in the file at the expense of the party and submit a response to the appeal in cassation with the Supreme Court through an advocate representing the party.

### **§ 164. Response to appeal in cassation**

(1) The response to an appeal in cassation shall be prepared in typewritten form and shall set out:

- 1) the Supreme Court as the addressee;
- 2) if the party to the court proceeding in whose interests the response to the appeal in cassation is submitted is a natural person, the given name, surname, address of the residence, telephone number and electronic mail address of the person;
- 3) if the party to the court proceeding in whose interests the response to the appeal in cassation is submitted is a legal person, the name of the person and the address of the seat, telephone number and electronic mail address of the person;
- 4) if the response to the appeal in cassation is submitted in the interests of a body conducting extra-judicial proceedings, the name, address, telephone number and electronic mail address of the body;
- 5) the appealed court judgment and the date thereof and the number of the misdemeanour matter;
- 6) whether the appeal in cassation is deemed to be justified or is contested;

7) reasoned objections to the requests made in the appeal in cassation, the facts, and a reference to the provision of an Act on which the objections of the party to the court proceeding are based.

8) justification of the necessity of oral proceedings if the person submitting the response to the appeal in cassation applies for oral proceedings.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(2) A response to an appeal in cassation shall be signed by the body which conducted the extra-judicial proceedings or the advocate representing the party to the court proceeding.

(3) If necessary, the Supreme Court may require a party to a court proceeding to submit a response to an appeal in cassation.

[RT I 2003, 83, 557 - entry into force 01.01.2004]

**§ 165. [Repealed - RT I, 23.02.2011, 1 - entry into force 01.09.2011]**

## **Division 3**

### **Hearing of Misdemeanour Matters by Supreme Court**

#### **§ 166. Procedure for hearing misdemeanour matters by way of cassation procedure**

(1) Generally, the Supreme Court shall hear a misdemeanour matter by way of a written proceeding. In such case the Supreme Court shall set a term during which the parties to the court proceeding may submit their positions to the court and the time for making the judgment public, and notify the parties to the court proceeding thereof. If a copy of the appeal in cassation has not been sent to the parties to the court proceeding pursuant to the procedure provided for in subsection 160 (1) of this Code, it shall be appended to the notice.

(2) A misdemeanour matter shall be heard by way of an oral proceeding in the case the Supreme Court deems it necessary. If the Supreme Court hears an appeal in cassation by way of an oral proceeding, it shall summons the parties to the court proceeding. The failure of a party to the court proceeding who has received the summons to appear in a court session shall not hinder the hearing of the matter, unless the Supreme Court decides otherwise.

(3) Parties to the court proceeding have the right to examine the court file in the Supreme Court and make copies of the file at their own expense.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

#### **§ 166<sup>1</sup>. Submission of request to European Court of Human Rights**

(1) The Supreme Court may, in a court case on which it is conducting a proceeding, request the European Court of Human Rights to give an advisory opinion on questions of principle relating to the interpretation or application of the rights and freedoms defined in the Convention on the Protection of Human Rights and Fundamental Freedoms or the protocols thereto in conformity with Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms.

(2) The request must be reasoned and describe the relevant legal and factual circumstances of the court case on which a proceeding is conducted.

(3) Advisory opinions of the European Court of Human Rights are not binding on the Supreme Court.

(4) If the Supreme Court requests the European Court of Human Rights to give an advisory opinion in an issue relating to a case, the Supreme Court may suspend its proceedings for the time when proceedings are conducted on the request.

(5) The Supreme Court shall resume the proceedings suspended pursuant to subsection (4) of this section after receipt of an advisory opinion about the request, becoming aware of denial of the request or withdrawal of the request. The Supreme Court may resume the proceedings even earlier if proceedings of the request specified in subsection (1) of this section is disproportionately delayed.

(6) In the case of suspension of a proceeding, the running of the procedural term provided for in subsection 176 (5) of the Code of Misdemeanour Procedure is suspended and, upon the expiry of the suspension of the proceeding, such term starts to run again from the beginning.

(7) The translation of a request into English or French and the translation of the decision of the European Court of Human Rights received for the submitted request into Estonian shall be organised by the Supreme Court at the expense of the state.

[RT I, 26.06.2017, 17 - entry into force 06.07.2017, § 166<sup>1</sup> is implemented as of the day of entry into force of Protocol 16 to the European Convention on the Protection of Human Rights and Fundamental Freedoms in respect of Estonia.]

#### **§ 167. Referral of misdemeanour matter for review by full panel of Criminal Chamber of Supreme Court**

(1) If fundamentally different opinions arise upon hearing of a misdemeanour matter as to the application of the law in a three-member panel of the Criminal Chamber of the Supreme Court or if there is reason to believe that a need arises to amend a position regarding application of the law maintained by the Criminal Chamber in an earlier decision, a misdemeanour matter shall be referred, on the basis of a ruling, for hearing by the full panel of the Criminal Chamber which shall comprise at least five justices of the Supreme Court.

(2) Upon hearing a misdemeanour matter by the full panel of the Criminal Chamber, the presiding judge is the chairman of the Criminal chamber, in his or her absence the member of the Criminal chamber who is senior in office, and in case of equal seniority in office, the member who is senior in age.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

#### **§ 168. Referral of misdemeanour matter for hearing by Special Panel of Supreme Court**

(1) A misdemeanour matter shall be referred for hearing by a Special Panel of the Supreme Court on the basis of a court ruling if the Criminal Chamber of the Supreme Court finds in the hearing of the misdemeanour matter that it is necessary to interpret the law so as to amend a position of another panel of the Supreme Court or a position maintained in the most recent court decision of the Special Panel or this is necessary for ensuring uniform application of law.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(2) A Special Panel of the Supreme Court shall be formed by the Chief Justice of the Supreme Court on the basis of a ruling of the full panel of the Criminal Chamber.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(3) The members of a Special Panel of the Supreme Court are:

- 1) the Chief Justice of the Supreme Court as the presiding judge;
- 2) two justices of the Criminal Chamber of the Supreme Court;
- 3) two justices from such chamber of the Supreme Court whose position concerning application of the law is contested by the Criminal Chamber.

(4) At the sessions of a Special Panel, materials shall be presented by a member of the Criminal Chamber.

#### **§ 169. Referral of misdemeanour matter for hearing by Supreme Court en banc**

(1) A misdemeanour matter shall be referred for hearing by the Supreme Court en banc on the basis of a court ruling if the full panel of the Criminal Chamber finds that:

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

- 1) it is necessary to amend the opinion concerning application of the law maintained in the most recent decision of the Supreme Court en banc or a Special Panel of the Supreme Court, or
- 2) only the Supreme Court en banc is competent to decide on uniform application of the law in the misdemeanour matter.

(2) The court panel hearing a misdemeanour matter shall refer the matter for hearing by the Supreme Court en banc if adjudication of the misdemeanour matter requires adjudication of an issue subject to hearing on the basis of the Constitutional Review Court Procedure Act.

#### **§ 170. Opening of Supreme Court session**

(1) The judge presiding over a court session shall:

- 1) open the session and announce the misdemeanour matter to be heard and the person on the basis of whose appeal in cassation the matter is heard;
- 2) ascertain whether the appellant in cassation, the body which conducted extra-judicial proceedings and the advocates representing the other parties to the court proceeding have appeared at the session, and verify the authority of the representatives;
- 3) ensure participation of an interpreter or translator, if necessary;
- 4) announce the composition of the court and the names of the appellant in cassation, the body which conducted extra-judicial proceedings and the advocates representing the other parties to the court proceeding, and ask whether they wish to submit petitions of challenge or other requests;
- 5) ask the appellant in cassation whether he or she will proceed with the appeal in cassation or discontinue the appeal.

(2) Discontinuance of an appeal in cassation shall be certified by the signature of the appellant on the appeal.

(3) The requests submitted shall be adjudicated by a ruling.

(4) If circumstances hindering the hearing of a misdemeanour matter become evident during a court session, the court shall adjourn the hearing of the matter by a ruling.  
[RT I 2003, 83, 557 - entry into force 01.01.2004]

#### **§ 171. Discontinuance of appeal in cassation**

(1) An appellant in cassation may discontinue an appeal in cassation in part or in full before the Supreme Court withdraws from the courtroom to make the judgment, and in the case of written proceedings until the expiry of the term granted to the parties to the court proceeding for submission of their positions.

(2) On the basis of a written request, a body conducting extra-judicial proceedings or a person subject to proceedings has the right to discontinue an appeal in cassation filed by the advocate representing or defending the party, except in the cases where participation of a counsel in the misdemeanour proceeding is mandatory pursuant to subsection 19 (3) of this Code.

(3) If an appellant in cassation discontinues an appeal in cassation, the hearing of the appeal in cassation shall be refused by a court ruling and the cassation proceedings shall be terminated with regard to such appeal in cassation.

(4) If the Supreme Court establishes that the county court or circuit court adjudicating a misdemeanour matter has incorrectly applied substantive law and has thus aggravated the situation of the offender or that the law on misdemeanour procedure has been materially violated, the hearing of the misdemeanour matter may be continued regardless of discontinuance of the appeal.  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

#### **§ 172. Presentation of materials of misdemeanour matter**

(1) After opening a court session, the presiding judge or a member of the court shall present the materials of the misdemeanour matter.

(2) A presentation shall give an overview of:

- 1) the facts relating to the misdemeanour matter;
- 2) the content of and reasons for the appeal in cassation;
- 3) the requests of the appellant in cassation;
- 4) the explanations and objections submitted in the response to the appeal in cassation.

#### **§ 173. Hearing of opinions of appellant in cassation and other parties to court proceeding, and closing of court session**

(1) After presentation of the materials of a misdemeanour matter, the court shall hear the opinions of the appellant in cassation, the body which conducted extra-judicial proceedings and the advocates representing the other parties to the court proceeding who have appeared at the court session, whereas the appellant in cassation shall be heard first.

[RT I 2003, 83, 557 - entry into force 01.01.2004]

(2) The court has the right to question an appellant in cassation, the body which conducted extra-judicial proceedings and the advocates representing the other parties to the court proceeding.  
[RT I 2003, 83, 557 - entry into force 01.01.2004]

(3) The presiding judge has the right to interrupt the person being questioned if he or she exceeds the limits of the appeal in cassation.

(4) After the appellant and the advocates have been questioned, the presiding judge shall close the court session and announce the time when the appellant in cassation and the other parties to the court proceeding may examine the judgment of the Supreme Court in the office of the Criminal Chamber. The judgment of the Supreme Court shall be published on the website of the Supreme Court.  
[RT I 2010, 19, 101 - entry into force 01.06.2010]

(5) [Repealed - RT I, 23.02.2011, 1 - entry into force 01.09.2011]

#### **§ 173<sup>1</sup>. Written questions of Supreme Court**

(1) For ensuring legal hearing, the Supreme Court shall have the right, during the entire cassation proceedings, to pose written questions to the party to the court proceeding. Written questions are signed by a member of the court panel hearing the matter. The written questions shall also set out the term for giving response to them which shall not be shorter than one week.

(2) A response to the written questions of the court shall be in typewritten form. The response shall be signed by the party to the court proceeding to whom the questions are addressed.  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

### **§ 173<sup>2</sup>. Limits for hearing misdemeanour matter by way of cassation procedure**

(1) A misdemeanour matter shall be heard within the limits of the appeal in cassation. In the hearing of a misdemeanour matter, the appellant in cassation does not have the right to exceed the limits of the appeal in cassation. The provisions in the first sentence of this subsection do not preclude or restrict the right of the appellant in cassation to submit allegations concerning the interpretation of law and objections against the positions of the party to the court proceeding.

(2) The Supreme Court is not bound by the legal grounds of an appeal in cassation.

(3) The Supreme Court shall extend the limits of hearing a misdemeanour matter to all the persons subject to proceedings and all the misdemeanours they are accused of regardless of whether an appeal in cassation has been filed with regard to them if incorrect application of substantive law which has aggravated the situation of the person subject to proceedings or a material violation of law on misdemeanour procedure becomes evident.  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

### **§ 174. Jurisdiction of Supreme Court**

The Supreme Court may, by a judgment:

- 1) refuse to amend a judgment made by a county or circuit court in the hearing of an appeal filed against a decision made in extra-judicial proceedings, and deny the appeal in cassation;
- 2) refuse to make substantive amendments to a judgment made by a county or circuit court in the hearing of an appeal filed against a decision made in the extra-judicial proceedings, and make corrections to the judgment;
- 3) amend the main part of a judgment made by a county or circuit court in the hearing of an appeal filed against a decision made in the extra-judicial proceedings by excluding facts presented in the decision;
- 4) annul a judgment made by a county or circuit court in the hearing of an appeal filed against a decision made in the extra-judicial proceedings, and terminate the misdemeanour proceedings by a judgment of the Supreme Court pursuant to the provisions of § 29 or 30 of this Code;
- 5) annul the judgment of a circuit court and enforce the judgment of the county court;  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]
- 6) annul a decision of a county court and execute the decision of the body which conducted the extra-judicial proceedings;  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]
- 7) annul, in full or in part, a judgment made by a county or circuit court in the hearing of an appeal filed against a decision made in the extra-judicial proceedings, and refer the misdemeanour matter for a new hearing by the court which applied substantive law incorrectly or materially violated the law on misdemeanour procedure;
- 8) annul, in full or in part, a judgment made by a county or circuit court in the hearing of an appeal filed against a decision made in the extra-judicial proceedings, and, without collecting any additional evidence, make a new judgment which does not aggravate the situation of the offender.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 175. Grounds for annulment of court judgment by way of cassation procedure**

The grounds for annulment of a court judgment by way of cassation procedure are:

- 1) incorrect application of substantive law according to § 149 of this Code;
- 2) material violation of the law on misdemeanour procedure according to § 150 of this Code.

### **§ 176. Judgment of Supreme Court**

(1) The introduction of a judgment of the Supreme Court shall set out:

- 1) the number of the case;
- 2) the date of the judgment of the Supreme Court;
- 3) panel of the court;
- 4) the name of the case heard;
- 5) the contested decision;
- 6) the date of hearing the case;
- 7) whether the case is heard by way of written or oral proceedings;
- 8) the given name and surname of the appellant in cassation, of the representatives of the other parties to the court proceeding and of the interpreters or translators who participated in the cassation proceeding;  
[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(2) The main part of a judgment of the Supreme Court shall set out:

- 1) a summary of the court proceedings to date;
- 2) the part of the court judgment which the appellant in cassation contests, and the requests of the appellant;
- 3) the explanations and objections submitted in the response to the appeal in cassation.
- 4) the opinions presented during the court session by the appellant in cassation, the body which conducted extra-judicial proceedings and the advocates representing the other parties to the court proceeding;

- 5) the reasons for the conclusions of the Supreme Court;
- 6) the legal basis for the conclusions of the Supreme Court.

(3) The final part of a judgment of the Supreme Court shall set out the conclusions of the court.

(4) If the Supreme Court refuses to amend a judgment of a county or circuit court pursuant to clause 174 1) or 2) of this Code:

- 1) the court is not required to repeat in its judgment the facts set out in the main part of the judgment of the county or circuit court, but may add the motives of the court;
  - 2) the court may decide to include in its judgment only the introduction and final part of the judgment and such provisions of the procedural law which were the basis for making the court judgment.
- [RT I 2005, 39, 308 - entry into force 01.01.2006]

(5) A judgment of the Supreme Court shall be accessible in the Office of the Supreme Court not later than 30 days after the session of the Supreme Court or the term granted to the parties to court proceeding for submission of their positions in written proceedings. If necessary, this term may be extended by a ruling to up to 60 days.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

### **§ 177. Entry into force of decision of Supreme Court**

The decisions of the Supreme Court enter into force on the date of signature and are not subject to appeal.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

### **§ 178. Obligation to comply with judgment of Supreme Court**

(1) Compliance with a position maintained in a judgment of the Supreme Court concerning application of the law is obligatory for:

- 1) the county or circuit court hearing the same misdemeanour matter;
- 2) the Supreme Court, taking into account the specifications provided for in §§ 167 to 169 of this Code.

(2) The Chambers of the Supreme Court shall comply with a judgment of a Special Panel of the Supreme Court concerning application of the law until such judgment is amended by another Special Panel of the Supreme Court or the Supreme Court en banc.

(3) The Chambers and Special Panels of the Supreme Court shall comply with a judgment of the Supreme Court en banc until the Supreme Court en banc itself amends the judgment.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Chapter 15 REVIEW PROCEDURE**

### **§ 179. Definition of review procedure**

(1) Review procedure means hearing of a petition for review by the Supreme Court in order to decide on resumption of a misdemeanour proceeding in which the court decision has entered into force.

(2) A misdemeanour matter in which the court decision has entered into force and resumption of the proceedings in which is requested shall be referred to as a misdemeanour matter subject to review.

### **§ 180. Grounds for review**

The grounds for review are:

[RT I 2006, 48, 360 - entry into force 18.11.2006]

- 1) the unlawfulness or unfoundedness of a court judgment or ruling made in the misdemeanour matter subject to review, arising from a false testimony of a witness, knowingly wrong expert opinion, knowingly false interpretation or translation, falsification of documents, or fabrication of evidence, which has been established by a court judgment which has entered into force in another criminal matter or misdemeanour matter;
- 2) a criminal offence established by a court judgment which has entered into force, committed by a judge in the hearing of the misdemeanour matter subject to review or an appeal filed against the decision made in the extra-judicial proceedings concerning the misdemeanour matter;
- 3) a criminal offence established by a court judgment which has entered into force, committed by the body which conducted the extra-judicial proceedings in the misdemeanour matter subject to review, if the criminal offence could have had an effect on the court judgment made in the misdemeanour matter subject to review;
- 4) annulment of a court judgment or ruling which was one of the bases for making a court judgment or ruling in the misdemeanour matter subject to review, if this may result in termination of the misdemeanour proceedings

in the misdemeanour matter subject to review due to absence of the elements of a misdemeanour in the act concerned, or in mitigation of the situation of the offender;

4<sup>1</sup>) satisfaction of individual complaints filed with the European Court of Human Rights against a court judgment or ruling in a misdemeanour matter subject to review due to a violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms or a Protocol thereto if such violation could have influenced the decision in the matter and it is not possible to eliminate the violation or compensate for the damage caused thereby in any other manner but by review;

5) any other facts which are relevant to the just adjudication of the misdemeanour matter but which the court was not aware of while making the court judgment or a court ruling in the misdemeanour matter subject to review and which independently or together with the facts previously established may result in termination of the misdemeanour proceedings due to absence of the elements of a misdemeanour in the act concerned or in mitigation of the situation of the offender.

6) [repealed - RT I 2003, 83, 557 - entry into force 01.01.2004]

### **§ 181. Right to submit petition for review**

(1) The parties to a court proceeding have the right to submit petitions for review.

(2) On the grounds provided by clause 180 4<sup>1</sup>) of this Code, an advocate who is a criminal defence counsel to a person who filed an individual complaint with the European Court of Human Rights the right to file a petition for review if the advocate has filed an individual complaint with the European Court of Human Rights in a similar matter and on the same legal grounds or who has the right to file such complaints in similar matters and on the same legal grounds, considering the term provided by Article 35.1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

[RT I 2006, 48, 360 - entry into force 18.11.2006]

### **§ 182. Terms for submission of petitions for review**

A petition for review may be submitted:

- 1) on the grounds prescribed in clauses 180 1) to 4<sup>1</sup>) of this Code, within six months after entry into force of the court judgment;
- 2) on the grounds prescribed in clause 180 4) of this Code, within six months after entry into force of the court ruling;
- 3) on the grounds prescribed in clause 180 5) of this Code, within three months after the appearance of new facts;
- 4) on the grounds prescribed in clause 180 6) of this Code, within three months after the appearance of any other facts.

[RT I 2006, 48, 360 - entry into force 18.11.2006]

### **§ 183. Petition for review**

(1) A petition for review submitted to the Criminal Chamber of the Supreme Court shall be prepared in typewritten form.

(2) A petition for review shall set out:

- 1) the official title, given name, surname and address of the petitioner;
- 2) the name of the body conducting extra-judicial proceedings or court whose decision is requested to be reviewed, and the date of the decision;
- 3) the title of the misdemeanour matter to be reviewed;
- 4) the given name and surname of the person who has been convicted in the misdemeanour matter and with regard to whom review of the misdemeanour matter is requested;
- 5) the grounds for review according to § 180 of this Code;
- 6) a list of the documents annexed to the petition for review.

(3) If a petition for review is submitted by a body conducting extra-judicial proceedings or an advocate, a document certifying the authority of the person submitting the petition shall be annexed to the petition.

(4) If review of a misdemeanour matter is requested on the basis of the provisions of clauses 180 1) to 4<sup>1</sup>) of this Code, a copy of the court ruling or court judgment on which the request for review is based shall be annexed to the petition for review.

(5) A person submitting a petition for review shall sign the petition and indicate the date of preparation of the petition in the petition.

[RT I 2006, 48, 360 - entry into force 18.11.2006]

### **§ 184. Acceptance of petition for review**

(1) The Supreme Court shall decide on acceptance of a petition for review pursuant to § 160 of this Code within one month after the expiry of the term for responding to a petition for review. Upon acceptance of a petition for review, the Supreme Court may suspend the execution of a court judgment made in the misdemeanour matter subject to review in part or in full as necessary.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(2) If a petition for review is not in compliance with the requirements provided for in § 183 of this Code, the Supreme Court shall grant a term for elimination of the deficiencies.

(3) A petition for review shall not be accepted if:

- 1) the Supreme Court finds that the petition for review does not contain the grounds for review;
- 2) the Supreme Court has previously refused to accept a petition for review submitted on the same grounds;
- 3) review of a court decision on the same grounds has been refused.

[RT I 2006, 48, 360 - entry into force 18.11.2006]

#### **§ 185. Non-acceptance of petition for review**

The Supreme Court shall, by a ruling, refuse to accept a petition for review if:

- 1) the petition for review is submitted after expiry of the term provided for in § 182 of this Code and the petitioner has not requested restoration of the term or the Supreme Court has refused to restore the term;
- 2) the petition for review is submitted by a person who pursuant to § 181 of this Code does not have the corresponding right;
- 3) the petition for review is not in compliance with the requirements of § 183 of this Code and the petitioner has failed to eliminate the deficiencies within the term granted by the Supreme Court.

#### **§ 186. Review procedure**

Review procedure shall be conducted in compliance with the provisions of §§ 166 to 173, 176 and 177 of this Code.

#### **§ 187. Jurisdiction of Supreme Court in review procedure**

If a petition for review is justified, the Supreme Court shall annul the contested court decision by a judgment and send the misdemeanour matter for a new hearing by the court which made the decision.

#### **§ 188. Proceedings in county or circuit court after review of misdemeanour matter**

(1) If a misdemeanour matter is reviewed, the court proceedings in the county or circuit court shall be conducted pursuant to the general procedure.

(2) Proceedings may be terminated without examination by the court if:

- 1) the offender is dead;
- 2) the facts are explicit and the body which conducted the extra-judicial proceedings does not request a court hearing.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Chapter 16 PROCEDURE FOR ADJUDICATION OF APPEALS AGAINST COURT RULINGS**

#### **§ 189. Scope of application of appeal against court ruling**

Appeals may be filed against a ruling made in the proceedings of a court of the first or second instance or in execution proceedings if contestation of the ruling is not precluded pursuant to § 191 of this Code.

#### **§ 190. Right to file appeal against court ruling**

A party to a court proceeding or a person not participating in the proceeding have the right to file an appeal against a court ruling which restricts the rights or legal interests of the party or person or of a person defended thereby.

#### **§ 191. Court rulings not subject to contestation pursuant to procedure for adjudication of appeals against court rulings**

Appeals shall not be filed against the following court rulings:

- 1) a ruling limiting access to a court session;
- 2) a ruling on referral of a misdemeanour matter to a court with appropriate jurisdiction;
- 3) a ruling on removal and a ruling on refusal to satisfy a petition of challenge;
- 4) [repealed - RT I 2006, 21, 160 - entry into force 25.05.2006]
- 5) a ruling on adjournment of a court hearing;

- 6) a ruling on joinder or severance of misdemeanour matters;
- 7) a ruling on adjudication of a request of a party to a court proceeding;
- 8) a ruling on collection of additional evidence in a court proceeding;
- 9) a ruling on an expert assessment;
- 10) a ruling on refusal to accept an appeal in appeal proceedings in a county or circuit court;
- 11) a ruling on referral of a misdemeanour matter for hearing by a court;
- 12) a court ruling made pursuant to § 79 of this Code in the adjudication of an appeal against the activities of a body conducting extra-judicial proceedings, except for a court ruling made on confiscation in the course of a misdemeanour proceeding.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 192. Appeal against court ruling and procedure for filing appeal**

(1) An appeal against a court ruling shall be filed with the court which made the contested court ruling, unless otherwise provided for in subsection (1<sup>1</sup>) of this section.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(1<sup>1</sup>) An appeal against a ruling of a circuit court shall be filed with the Supreme Court.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(2) An appeal against a court ruling shall be filed in writing and shall set out:

- 1) the name of the court with whom the appeal is filed;
- 2) the name, procedural status, and the address of the residence or seat of the appellant;
- 3) the name of the court which made the contested ruling, the date of the ruling and the name of the party to the court proceeding with regard to whom the ruling is contested;
- 4) which part of the ruling is contested;
- 5) the content of and reasons for the requests submitted in the appeal;
- 6) a list of the documents annexed to the appeal.

(3) A person filing an appeal against a court ruling shall sign the appeal and indicate the date of preparation of the appeal in the appeal.

(4) An appeal against a court ruling shall be included in the misdemeanour file.

### **§ 193. Term for filing appeal against court ruling**

(1) A party to court proceedings may file an appeal against a court ruling within 15 days as of the date on which the contested ruling was made. If a court ruling was made in a written proceedings, a party to the court proceedings may file an appeal against the court ruling within 15 days as of the date on which the party became or should have become aware of the contested ruling.

(2) A person not participating in the proceedings may file an appeal against a court ruling within 15 days as of the date on which the person became or should have become aware of the contested ruling.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

### **§ 194. Procedure for hearing appeals against court rulings**

(1) An appeal against a court ruling shall be heard within the limits of the appeal and with regard to the person concerning whom it is filed.

(2) An appeal against a court ruling shall be heard by way of a written proceeding without the participation of the parties to the court proceeding.

(3) Appeals against court rulings shall be heard pursuant to the provisions of Chapters 11 to 14 of this Code, taking into account the specifications provided for in this Chapter.

### **§ 195. Hearing of appeal against court ruling by court which made ruling**

(1) A court which made a ruling shall hear an appeal against the ruling within five days after the receipt of the appeal.

(2) If the panel of a court which made a contested court ruling considers the appeal against the ruling justified, the panel shall annul the contested court ruling by a ruling and, if necessary, shall make a new ruling. The appellant shall be immediately notified of the annulment of the contested court ruling and of the making of the new ruling.

(3) If the panel of a court which made a contested court ruling considers the appeal against the ruling unjustified, the panel shall forward the contested court ruling and the appeal against the ruling immediately to the court with appropriate jurisdiction.

### **§ 196. Hearing of appeal against court ruling by higher court**

- (1) A higher court shall hear an appeal against a court ruling within ten days after the receipt of the appeal.
- (2) An appeal against a ruling made by a county judge shall be heard by the circuit court judge sitting alone.
- (3) An appeal against a ruling of a circuit court shall be heard by a three-member panel of the Criminal Chamber of the Supreme Court.

(4) The Supreme Court shall decide on acceptance of an appeal against a ruling of a circuit court pursuant to the provisions of § 160 of this Code. The Supreme Court shall accept an appeal against a ruling made in the hearing of an appeal against a ruling in a circuit court if the decisions of the Supreme Court in this matter is essential for uniform application of law or elaboration of law.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

### **§ 197. Suspension of execution of contested ruling**

A court which receives an appeal against a court ruling may suspend the execution of the contested ruling.

### **§ 198. Finality of court ruling made in hearing of appeal against court ruling**

A court ruling made in the hearing of an appeal against a court ruling is final and not subject to appeal.

## **Chapter 17** **ENTRY INTO FORCE AND EXECUTION OF DECISIONS**

### **Division 1** **General Provisions**

### **§ 199. Entry into force of decisions and rulings made in extra-judicial proceedings and of court judgments and court rulings**

(1) A decision made in extra-judicial proceedings enters into force upon expiry of the term for appeal if no appeals have been filed.

(2) A court judgment or ruling enters into force if the judgment or ruling cannot be contested in no other way than by way of review procedure, except in the case prescribed in subsections (3) or (4) of this section.

(2<sup>1</sup>) If the term for submission of an appeal against a decision made in extra-judicial proceedings, a judgment or ruling is restored, the decision made in extra-judicial proceedings, the judgment or ruling is deemed has not entered into force.

[RT I, 19.03.2015, 1 - entry into force 29.03.2015]

(3) A court judgment on imposition of detention enters into force as of the making of the judgment.

(4) A court ruling made in written proceedings shall enter into force as of the making of the ruling.

(5) A ruling made in extra-judicial proceedings shall enter into force as of the making of the ruling.

[RT I 2003, 26, 156 - entry into force 21.03.2003]

### **§ 200. Binding force of decisions and rulings of bodies conducting extra-judicial proceedings and of court judgments and court rulings**

The decisions and rulings of the bodies conducting extra-judicial proceedings and the court judgments and rulings which have entered into force are binding on all persons in the territory of the Republic of Estonia.

### **§ 201. Permissibility of execution of decisions and rulings of bodies conducting extra-judicial proceedings and of court judgments and court rulings**

(1) A decision or ruling of a body conducting extra-judicial proceedings or a court judgment or ruling shall be executed if the decision, judgment or ruling has entered into force and execution thereof has not been adjourned pursuant to § 209 of this Code.

(2) If an appeal is filed with a county court against a decision of a body conducting extra-judicial proceedings or an appeal or appeal in cassation is filed against a court judgment with regard to only one of the persons subject to proceedings, the decision or judgment shall be executed with regard to the other persons subject to proceedings.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 202. Bodies executing decisions and rulings of bodies conducting extra-judicial proceedings or court judgments and rulings**

(1) A decision or ruling of a body conducting extra-judicial proceedings which has entered into force shall be executed by the body conducting extra-judicial proceedings which made the decision in the extra-judicial proceeding.

(2) A court judgment or ruling of a court of first instance which has entered into force shall be executed by the county court which made the decision in the matter.

(3) A court judgment made in appeal proceedings in a county court or in cassation proceedings which has entered into force shall be executed by the body conducting extra-judicial proceedings which made the first decision in the same misdemeanour matter.

(4) A decision of a court of appeal or court of cassation which has entered into force shall be executed by the county court which made the first court decision in the same misdemeanour matter.

(5) In the case provided for in subsection 204 (2) of this Code, the court judgment shall be enforced by the institution designated by a directive of the minister responsible for the area.

[RT I, 29.06.2014, 109 - entry into force 01.07.2014, the words "the Minister of Finance" substituted with the words "the minister responsible for the area" on the basis of subsection 107<sup>3</sup> (4) of the Government of the Republic Act.]

### **§ 203. Terms for execution of decisions and rulings of bodies conducting extra-judicial proceedings and of court judgments and court rulings**

(1) A court judgment on the release of a person subject to proceedings from detention shall be executed immediately after pronouncement of the final part of the judgment.

(2) A decision of a body conducting extra-judicial proceedings or a court judgment on the punishment of an offender shall be executed within ten days as of the date of entry into force of the decision or judgment or of the date of return of the misdemeanour matter from the court of appeal or court of cassation.

[RT I 2003, 26, 156 - entry into force 21.03.2003]

(3) A court judgment on imposition of detention shall be executed pursuant to the procedure provided for in § 205 of this Code.

(4) A ruling of a body conducting extra-judicial proceedings or a court ruling shall be executed upon entry into force of the ruling.

(5) A decision shall not be executed with if the term provided for in clause 82 (1) 3) of the Penal Code has expired and execution of the decision of the body conducting extra-judicial proceedings or the court judgment has not been adjourned.

[RT I 2009, 68, 463 - entry into force 01.01.2010]

## **Division 2 Execution of Decisions**

### **§ 204. Execution of fines imposed by decision of body conducting extra-judicial proceedings or by court judgment**

[RT I 2005, 39, 308 - entry into force 01.01.2006]

(1) A decision of a body conducting extra-judicial proceedings on imposition of a fine shall be deemed to be complied with and shall not be executed if:

[RT I 2005, 39, 308 - entry into force 01.01.2006]

1) the offender has paid the fine in full within 15 days as of the receipt of the decision of the body made by way of expedited procedure pursuant to subsection 55 (2) of this Code or, in the case of a fine paid in instalments, pays the instalments on time;

[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

2) the offender has paid the fine in full within 15 days as of the date when the decision of the body conducting extra-judicial proceedings made by way of general procedure pursuant to clause 73 (1) 1) of this Code became available for examination by the participants in the proceedings at the body or, in the case of a fine paid in instalments, pays the instalments on time.

[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

3) the fine imposed by a decision which is executed pursuant to subsection 202 (1) of this Code by the Tax and Customs Board, if the Tax and Customs Board has set off the fine in full pursuant to the procedure provided for in the Taxation Act before the expiry of the term for execution.

[RT I, 31.01.2014, 6 - entry into force 01.02.2014]

(2) A court judgment on imposition of a fine shall be sent to the institution appointed by a directive of the minister responsible for the area after the entry into force of the judgment who shall verify whether or not the offender has paid the fine in full. A court judgment on imposition of a fine shall be deemed to be complied with and shall not be executed if the Tax and Customs Board has set off the fine in full pursuant to the procedure provided for in the Taxation Act before the expiry of the term for execution.

[RT I, 29.06.2014, 109 - entry into force 01.07.2014, the words "the Minister of Finance" in the first sentence substituted with the words "the minister responsible for the area" on the basis of subsection 107<sup>3</sup> (4) of the Government of the Republic Act.]

(3) If the offender fails to pay the fine in full within the term specified in clause (1) 1) or 2) of this section or within the term for appeal against the court judgment or fails to comply with the term for payment of the fine in instalments, the institution executing the decision pursuant to § 202 of this Code shall send, within ten days, a copy of the decision to the bailiff on which a notation concerning the entry into force has been made.

[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(4) Decisions executed by the Tax and Customs Board pursuant to § 202 of this Code shall be executed pursuant to the procedure provided for in the Taxation Act.

[RT I, 31.01.2014, 6 - entry into force 01.02.2014]

#### **§ 204<sup>1</sup>. Recognition and execution of fines imposed in foreign states in misdemeanour matters by decisions of bodies conducting extra-judicial proceedings or by court judgments**

The provisions concerning criminal procedure for recognition and enforcement of foreign court judgments apply to recognition and execution of fines imposed in foreign states in misdemeanour matters by decisions of bodies conducting extra-judicial proceedings or by court judgments, taking into consideration the substitution of fines by detention provided for in § 72 of the Penal Code, unless otherwise prescribed by the international agreements of the Republic of Estonia or the generally recognised principles of international law.

[RT I 2008, 33, 201 - entry into force 28.07.2008]

#### **§ 204<sup>2</sup>. Requests to member states of European Union for execution of fines imposed in misdemeanour matters by decisions of bodies conducting extra-judicial proceedings or court judgments**

Estonia may request from a member state of the European Union execution of a fine imposed on a person in a misdemeanour matter by a decision of a body conducting extra-judicial proceedings or a court judgment. The provisions of the Code of Criminal Procedure concerning recognition and execution of Estonian court judgments apply to requests for execution of decisions on fines.

[RT I 2008, 33, 201 - entry into force 28.07.2008]

#### **§ 204<sup>3</sup>. Enforcement of withdrawal of right to drive**

In order to enforce withdrawal of the right to drive imposed as principal or supplementary punishment, the court judgment or decision of the body conducting extra-judicial proceedings shall be sent to the institution concerned for withdrawal from the offender the rights indicated in the decision and deposit of the documents issued to the offender for exercising such rights.

[RT I 2008, 54, 304 - entry into force 27.12.2008]

#### **§ 205. Execution of detention**

(1) If execution of a court judgment on imposition of detention is not adjourned pursuant to § 209 of this Code and the offender was detained for the period of the court proceeding, the county judge shall execute the court judgment immediately after the making of the judgment. A copy of the court judgment with a notation concerning entry into force of the judgment shall be sent to the house of detention of the location of the court, which made the judgment, or of the residence of the offender, including reservist and person in active service, or to the Defence Forces in the case of detention imposed on a conscript.

[RT I, 01.03.2017, 1 - entry into force 01.04.2017]

(2) If execution of a court judgment has not been adjourned pursuant to § 209 of this Code and the offender was not detained for the period of the court proceeding, the county court executing the court decision shall send a ruling to the offender setting out when and to which detention house the offender must appear to serve the sentence. A copy of the ruling and of the court judgment with a notation concerning the date of entry into force of the judgment shall be sent to the detention house in which the offender is to serve the sentence.

(3) In the case provided for in subsection (2) of this section, the time when the offender arrives at the detention house is deemed to be the time of commencement of the service of the detention.

(4) If an offender fails to appear at a detention house at the prescribed time to serve the detention, the detention house shall notify the court which executed the detention of such failure. In such case, the county court shall make a ruling on compelled attendance with regard to the offender.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 206. Procedure for transfer of confiscated property**

[RT I, 31.12.2016, 2 - entry into force 01.02.2017]

(1) Unless otherwise provided by law, the body executing a court decision or a decision of a body conducting extra-judicial proceedings shall send the following documents to the agency authorised to administer confiscated property:

- 1) a copy of the court judgment or ruling or the decision or ruling of the body conducting extra-judicial proceedings with a notation concerning the entry into force thereof;
- 2) a copy of the procedural document concerning confiscated property.

(2) The cost of transfer and destruction of confiscated property shall be paid by the offender.

(3) The procedure for transfer of confiscated property and refund of the money received from transfer to the lawful possessor of the property from the budget shall be established by the Government of the Republic.

[RT I, 31.12.2016, 2 - entry into force 01.02.2017]

#### **§ 207. Execution of procedure expenses and other financial claims prescribed in decisions of bodies conducting extra-judicial proceedings or court judgments**

The procedure expenses and other financial claims prescribed by a decision of a body conducting extra-judicial proceedings or a court judgment shall be executed pursuant to the procedure provided for in §§ 201, 203 and 204 of this Code.

#### **§ 207<sup>1</sup>. Enforcement and performance of community service**

(1) Community service is enforced by sending the decision which has entered into force to the probation supervision department of the residence of the offender.

[RT I, 31.12.2016, 2 - entry into force 01.01.2017]

(2) The head of the probation supervision department who receives a decision shall appoint an officer and the duty of the officer is to monitor the community service of the offender.

[RT I, 31.12.2016, 2 - entry into force 01.01.2017]

(3) The procedure for preparation, execution of sentence and supervision of community service shall be established by a regulation of the minister responsible for the area.

[RT I 2010, 44, 258 - entry into force 01.01.2012]

## **Division 3 Return of Objects in Misdemeanour Procedure**

#### **§ 208. Return of objects**

(1) If documents or objects have been taken away from a person with regard to whom misdemeanour proceedings are terminated, the county court executing the court judgment shall send the court judgment which has entered into force to the institution concerned for the return of such documents or objects to the owner or lawful possessor thereof.

(2) If documents or objects have been taken away from a person with regard to whom misdemeanour proceedings are terminated, the body conducting extra-judicial proceedings executing the decision shall return the objects to the owner or lawful possessor thereof or shall send the decision which has entered into force to the institution concerned for the return of such documents or objects to the owner or lawful possessor thereof.

(3) The return of a document certifying a special right shall be decided by the issuing institution on the bases and pursuant to the procedure prescribed by law.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Division 4**

## **Adjudication of Issues Arising from Execution of Decisions of Bodies Conducting Extra- judicial Proceedings or Court Decisions**

### **§ 209. Adjournment of execution of fine or detention imposed as punishment for misdemeanour**

(1) If circumstances exist which render impossible the immediate service of the detention imposed as a punishment for a misdemeanour, the county court executing the decision may, on the basis of a petition of the offender, adjourn the execution of the detention by a ruling which shall set out the date of commencement and expiry of the period of adjournment.

(2) If circumstances exist which render impossible the immediate payment of a fine imposed as a punishment for a misdemeanour, the county court or the body conducting extra-judicial proceedings executing the decision may, on the basis of a petition of the offender, adjourn the execution of the fine by a ruling which shall set out the date of commencement and expiry of the period of adjournment.

(3) In the case of adjournment of the execution of a detention, the decision shall be executed pursuant to the procedure provided for in subsections 205 (2) to (4) of this Code immediately after the date of expiry of the period of adjournment. A copy of the ruling on adjournment of the detention shall be sent to the detention house together with a copy of the decision.

(4) In the case of adjournment of the execution of a fine specified in subsection (2) of this section, the decision shall be executed immediately after the date of expiry of the period of adjournment. A copy of the ruling on adjournment of the payment of the fine shall be sent to the bailiff together with a copy of the decision on which the date of entry into force of the decision has been indicated.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 210. [Repealed - RT I 2004, 46, 329 - entry into force 01.07.2004]**

### **§ 210<sup>1</sup>. Settlement of issues arising in execution of sentence of community service**

(1) If an offender evades community service, the probation officer shall submit a request to court to enforce the detention imposed on the offender.

[RT I, 31.12.2016, 2 - entry into force 01.01.2017]

(2) The judge in charge of execution of court judgments at the county court of the residence of an offender shall, by a ruling made within ten days as of the receipt of a report of the probation officer by the court, decide whether to annul the community service of the offender and enforce the sentence of imprisonment imposed on him or her by the court judgment pursuant to subsection 69 (6) of the Penal Code.

[RT I, 31.12.2016, 2 - entry into force 01.01.2017]

### **§ 210<sup>2</sup>. Notification of performance of community service**

If the hours of community service imposed on an offender have been performed, the probation officer shall send the relevant information to the Punishment Register during the term and pursuant to the procedure provided for in the Punishment Register Act.

[RT I, 31.12.2016, 2 - entry into force 01.01.2017]

### **§ 210<sup>3</sup>. Request for interruption or suspension of community service**

(1) If an offender evades community service imposed on him or her and a probation officer ascertains such violation, the probation officer shall submit a request to a court which contains information on the facts of the violation, number of the hours of community service performed, summary of the explanation of the offender and a proposal to interrupt the community service and execute the detention.

[RT I, 31.12.2016, 2 - entry into force 01.01.2017]

(2) If an offender fails to perform the community service imposed on him or her due to an illness or family situation or for the reason that he or she is performing his or her obligation for conscription or participates in training exercises, the probation officer shall submit a request to a court for suspension of the term of community service. The request shall contain information on the bases of suspension and a proposal for the term of suspension. Upon suspension of the term and upon determination of a new term, the court shall take into account the general restrictions on the term of community service prescribed for the respective offence.

[RT I, 31.12.2016, 2 - entry into force 01.01.2017]

#### **§ 210<sup>4</sup>. Assignment of performance of community service**

(1) The minister responsible for the area may, pursuant to the procedure provided for in the Administrative Co-operation Act and on the basis of a contract under public law, assign a proportion of the performance of community service in the work area of a probation supervision department to a suitable local government or non-profit association which has expressed such desire. The right to submit a request for interruption of community service provided for in § 210<sup>3</sup> of this Code shall not be assigned.  
[RT I, 31.12.2016, 2 - entry into force 01.01.2017]

(2) Supervision over the activities of local governments or non-profit associations in performance of community service shall be exercised by the head of the probation supervision department of the same area and the minister responsible for the area.  
[RT I, 31.12.2016, 2 - entry into force 01.01.2017]

(3) A head of a probation supervision department and the minister responsible for the area may give mandatory instructions to a local government or a non-profit association in performing community service. In the event of unsatisfactory performance of community service or failure to comply with mandatory instructions, the minister responsible for the area may terminate the contract under public law pursuant to the procedure provided for in such contract.  
[RT I, 31.12.2016, 2 - entry into force 01.01.2017]

#### **§ 211. Substitution of fine imposed as punishment for misdemeanour by detention or community service and enforcement of punishment**

[RT I 2010, 44, 258 - entry into force 01.01.2012]

(1) If an offender fails to pay a fine in full within the prescribed term or to comply with the terms for the payment of a fine in instalments, whereas the term for payment of the fine has not been extended and the offender does not have any property which could be subject to a claim, the county court shall make a ruling on substitution of the fine by detention pursuant to § 72 of the Penal Code on the basis of a petition of a claimant.  
[RT I 2010, 44, 258 - entry into force 01.01.2012]

(1<sup>1</sup>) A county court shall resolve substitution of a fine by detention or community service in the presence of the offender. At the request of the offender, his or her counsel shall be summoned to court and his or her opinion shall be heard.  
[RT I 2010, 44, 258 - entry into force 01.01.2012]

(2) In the case of partial payment of a fine, the part of the fine which has been paid shall be taken into consideration in determination of the period of detention as a substitute for the fine or duration of community service in proportion to the paid sum.  
[RT I 2010, 44, 258 - entry into force 01.01.2012]

(3) If substitution of a fine by detention or community service is for some reason not possible or if the offender pays the fine before the imposition of the detention or community service, the county court shall make a ruling on denial of the petition of the claimant for substitution of the fine by detention or community service.  
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

(4) A court shall send a copy of a ruling specified in subsection (1) or (3) of this section to the bailiff and the offender.  
[RT I, 14.03.2011, 3 - entry into force 24.03.2011]

#### **§ 212. Adjudication of issues arising from execution of decisions of bodies conducting extra-judicial proceedings or of court decisions**

(1) Issues not governed by this Chapter and other doubts and ambiguities arising from the execution of a decision of a body conducting extra-judicial proceedings or a court decision shall be adjudicated by the court or body which made the decision or by the body conducting extra-judicial proceedings or county judge executing the decision, by a ruling made by way of written proceedings without summoning the participants in the proceedings.

(2) A copy of the ruling shall be sent to the bailiff and to the participants in the proceedings concerned.  
[RT I 2005, 39, 308 - entry into force 01.01.2006]

#### **§ 212<sup>1</sup>. Receipt of cautionary fine**

A cautionary fine shall be transferred to the state budget. If a rural municipality or city government conducting extra-judicial proceedings imposes a cautionary fine, the cautionary fine shall be transferred into the budget of the local government which made the corresponding decision. If a legal person in private law which has entered into a contract under public law with a rural municipality or city government conducts extra-judicial proceedings and has imposed a cautionary fine, the cautionary fine shall be transferred into the budget of the local government which has entered into a contract under public law with the legal person in private law.

[RT I 2004, 46, 329 - entry into force 01.07.2004]

## **Chapter 18**

### **IMPLEMENTING PROVISIONS**

#### **§ 212<sup>3</sup>. Assignment of performance of community service**

A judgment enforced or a ruling on community service imposed until 1 January 2017 which has not been complied with or has been complied with in part shall be sent to a probation supervision department within 30 days from 1 January until 30 January 2017.

[RT I, 31.12.2016, 2 - entry into force 01.01.2017]

#### **§ 212<sup>4</sup>. Specifications for implementation of § 166<sup>1</sup>**

§ 166<sup>1</sup> of this Code is implemented as of the day of entry into force of Protocol 16 to the European Convention on the Protection of Human Rights and Fundamental Freedoms in respect of Estonia.

[RT I, 26.06.2017, 17 - entry into force 06.07.2017]

**§ 213.–§ 216.**[Omitted from this text.]

#### **§ 217. Entry into force of Code**

The Code of Misdemeanour Procedure enters into force together with the Penal Code.