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## Code of Misdemeanour Procedure

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11.06.2008	RT I 2008, 28, 180	15.07.2008
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18.12.2008	RT I 2009, 3, 14	10.01.2009
06.05.2009	RT I 2009, 27, 165	01.01.2010
10.06.2009	RT I 2009, 34, 224	01.01.2010
09.12.2009	RT I 2009, 68, 463	01.01.2010
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07.12.2011	RT I, 28.12.2011, 1	01.01.2012
08.12.2011	RT I, 29.12.2011, 1	01.01.2012
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06.06.2012	RT I, 29.06.2012, 1	01.04.2013, in part 01.01.2014
06.06.2012	RT I, 29.06.2012, 2	09.07.2012, in part 01.01.2013
14.06.2012	RT I, 04.07.2012, 1	01.08.2012
13.03.2013	RT I, 22.03.2013, 9	01.04.2013, in part 01.01.2014
19.06.2013	RT I, 06.07.2013, 3	16.07.2013
21.01.2014	RT I, 31.01.2014, 6	01.02.2014
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12.06.2014	RT I, 21.06.2014, 11	01.07.2014
19.06.2014	RT I, 12.07.2014, 1	13.07.2014, in part 1.01.2015
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05.11.2014	RT I, 20.11.2014, 1	01.05.2015
18.02.2015	RT I, 19.03.2015, 1	29.03.2015, in part 06.04.2015 and 01.09.2015
15.12.2016	RT I, 31.12.2016, 2	01.01.2017, in part 01.02.2017
15.02.2017	RT I, 01.03.2017, 1	01.04.2017
31.05.2017	RT I, 16.06.2017, 1	01.07.2017
07.06.2017	RT I, 26.06.2017, 17	06.07.2017
14.06.2017	RT I, 26.06.2017, 69	06.07.2017
14.06.2017	RT I, 04.07.2017, 1	01.01.2018
22.11.2017	RT I, 05.12.2017, 1	15.12.2017, in part 01.01.2018
13.12.2017	RT I, 30.12.2017, 2	09.01.2018
09.05.2018	RT I, 31.05.2018, 1	01.01.2019
09.05.2018	RT I, 31.05.2018, 2	10.06.2018, in part 01.01.2019
21.11.2018	RT I, 12.12.2018, 3	01.01.2019
20.02.2019	RT I, 13.03.2019, 2	15.03.2019
04.12.2019	RT I, 20.12.2019, 1	30.12.2019
18.12.2019	RT I, 08.01.2020, 1	17.01.2020
20.04.2020	RT I, 06.05.2020, 1	07.05.2020
17.06.2020	RT I, 10.07.2020, 1	01.01.2021, amended in part [RT I, 21.11.2020, 1]
17.06.2020	RT I, 10.07.2020, 2	01.01.2021
12.11.2020	RT I, 21.11.2020, 1	01.01.2021
25.11.2020	RT I, 10.12.2020, 1	01.01.2021
17.02.2021	RT I, 03.03.2021, 1	04.03.2021
14.04.2021	RT I, 20.04.2021, 1	30.04.2021
19.05.2021	RT I, 28.05.2021, 11	07.06.2021
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21.04.2022	RT I, 28.04.2022, 24	29.04.2022
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22.02.2023	RT I, 11.03.2023, 1	01.11.2023
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11.12.2024	RT I, 30.12.2024, 1	01.01.2025, the words "Ministry of Justice" replaced with words "Ministry of Justice and Digital Affairs" on the basis of subsection 12 of § 105.19 of the Government of the Republic Act.

## **Chapter 1**

# **FUNDAMENTAL PROVISIONS**

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

This Code lays down the rules of out-of-court procedure and of procedure before the courts in misdemeanour cases as well as the rules concerning enforcement of sanctions or sentences imposed for misdemeanours.

### **§ 2. Application of provisions on criminal procedure**

Unless otherwise provided for by this Code, the provisions of criminal procedure apply in misdemeanour procedure, without prejudice to rules special to misdemeanour procedure.

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

(1) The law of misdemeanour procedure is applicable to natural and legal persons. The State, municipalities and public legal persons are also subject to the written caution procedure.  
[RT I 2008, 54, 304 – entry into force 27.12.2008]

(2) At the request of the relevant foreign state, Estonian law of misdemeanour procedure may be applied to persons who enjoy diplomatic immunity or privileges under an international agreement, without prejudice to the special rules provided by such an agreement.  
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

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

(1) When the elements of a misdemeanour are revealed, the out-of-court proceedings authority is required to commence and conduct misdemeanour proceedings, unless the authority is convinced that the act in question is of minor importance or unless circumstances are present that are provided for by § 29 of this Code and that preclude misdemeanour proceedings in the case.

(2) Where, in relation to a misdemeanour of minor importance, the decision is made not to commence misdemeanour proceedings, the person who committed the act characterized by the elements of the misdemeanour may be given an oral caution.  
[RT I, 11.03.2023, 2 – entry into force 01.05.2023]

(3) Where the misdemeanour is of minor importance, the decision may be made not to commence misdemeanour proceedings, provided that, in the assessment of the proceedings authority:

- 1) it suffices to caution the person who committed the misdemeanour;
- 2) identification of the person who committed the misdemeanour is unlikely;
- 3) conducting the proceedings would be unreasonably expensive having regard to the circumstances of the misdemeanour.

[RT I, 11.03.2023, 2 – entry into force 01.05.2023]

(4) A misdemeanour is not of minor importance when its commission has caused harm or if the misdemeanour report cites the causing of harm, except where the person who committed the misdemeanour has voluntarily compensated for or remedied such harm.

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

#### **§ 4. Presumption of innocence**

No one may be deemed guilty of a misdemeanour before the decision sanctioning them for that misdemeanour has entered into effect.

#### **§ 5. Safeguarding the rights of the party to proceedings**

The out-of-court proceedings authority, and the court, are required:

- 1) when performing a procedural operation, to explain to the party to proceedings the purpose of the operation and the rights and obligations of the party;
- 2) provide the person subject to proceedings with the opportunity to defend themselves independently;
- 3) allow the defence counsel of the person subject to proceedings to participate in those proceedings on the basis and in accordance with the rules provided by subsections 2 and 3 of § 19 and in subsections 1 and 2 of § 22 of this Code.

#### **§ 6. Respect for the dignity of persons**

The proceedings authority must treat the party to proceedings in a manner that does not harm their honour or degrade their dignity.

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

Compensation for any harm caused by the commission of a misdemeanour is decided on based on the grounds and in accordance with the rules provided by civil laws.

## **Chapter 2 MISDEMEANOUR PROCEDURE – THE PROCEEDINGS AUTHORITY, THE PARTY TO PROCEEDINGS, EXPERTS, INTERPRETERS OR TRANSLATORS AND THE PARTIES TO JUDICIAL PROCEEDINGS**

### **Subchapter 1 Proceedings Authority in Misdemeanour Procedure**

#### **§ 8. Proceedings authority**

The proceedings authority is:

- 1) in out-of-court proceedings, the out-of-court proceedings authority;
- 2) in judicial proceedings, the court.

#### **§ 9. Out-of-court proceedings authority**

Where this is provided for by law, the out-of-court proceedings authority is:

- 1) an agency vested with the relevant executive authority;
- 2) the executive of a rural or urban municipality.

(3) [Repealed – RT III 2008, 24, 159 – entry into force 16.05.2008]

#### **§ 10. Official of an out-of-court proceedings authority**

(1) An out-of-court proceedings authority participates in proceedings through an official.

(2) An out-of-court proceedings authority approves a list of positions whose holders are authorised to participate in misdemeanour proceedings in its name. If necessary, positions on the list may be differentiated according to the sanctions that position holders are authorised to impose.

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

(2<sup>1</sup>) Within the scope of procedural jurisdiction of an out-of-court proceedings authority, the head of the authority may issue general directions in order to ensure the legality and efficacy of proceedings.

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

(3) An out-of-court proceedings authority issues an authorised official with a service card certifying the official's status as a representative of the authority. The card must show the title, number and date of the legal instrument under which the official holds the status.

(3<sup>1</sup>) Where the official is a police officer, their service ID serves as proof of their status.  
[RT I, 29.12.2011, 1 – entry into force 01.01.2012]

(4) Officials of the out-of-court proceedings authority are required to present their service card to the person subject to proceedings, to any other parties to proceedings and to the court.

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

#### **§ 11. Resolution of jurisdictional disputes between proceedings authorities**

(1) If jurisdiction to conduct proceedings in a misdemeanour case is vested by law in several proceedings authorities, the case is dealt with by officials of the authority that performed the first procedural operation in the case. Jurisdictional disputes between proceedings authorities are resolved by agreement.

(2) If the proceedings authorities fail to reach an agreement, the jurisdictional dispute is resolved without delay by a ruling of:

- 1) the relevant Minister – if the authorities are within the area of government of that Minister;
  - 2) in situations not falling under clause 1 of this subsection, the Minister in charge of the policy sector.
- [RT I, 04.07.2017, 1 – entry into force 01.01.2018]

(3) The out-of-court proceedings authority which, under the ruling provided for by subsection 2 of this section, has been precluded from pursuing the proceedings sends the documentation concerning the misdemeanour, together with a cover letter, to the authority mandated to proceed. Only urgent procedural operations are performed before transferring the misdemeanour case to that authority.

#### **§ 12. Service area in which proceedings are conducted in a misdemeanour case**

(1) Out-of-court proceedings in a misdemeanour case are conducted according to the place where the misdemeanour was committed.

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

(2) On an application of the person subject to proceedings in a misdemeanour case, such proceedings may be conducted:

- 1) in the service area in which that person has their residence or seat;
- 2) in the service area in which the relevant motor or rail vehicle or air or water craft has been registered – in Estonia.

(3) If, after the commencement of proceedings, the person subject to proceedings changes their residence or seat, proceedings in the case may, on an application of that person, be conducted in the service area in which their new residence or seat is located.

(4) An out-of-court proceedings authority disposes of the applications provided for by subsections 2 and 3 of this section by making a corresponding order.

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

(5) An organisational unit of the Police and Border Guard Board with jurisdiction to conduct proceedings in the entire national territory may transfer proceedings in a misdemeanour case to a unit that has jurisdiction in the region where the misdemeanour was committed, provided this is expedient for practical purposes and does not harm the interests of the person subject to proceedings. On an application of the person, their misdemeanour case may be transferred to an authority that has jurisdiction to conduct the relevant out-of-court proceedings in the region in which the person has their residence or seat or in which the relevant motor or rail vehicle or air or water craft has been registered in Estonia.

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

#### **§ 13. Proceedings authority in judicial proceedings**

In judicial proceedings, the proceedings authority is the district court, the circuit court of appeal or the Supreme Court.

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

#### **§ 14. Jurisdiction**

(1) A misdemeanour case or an appeal or challenge filed against the disposition rendered in the case is dealt with by the district court in whose judicial district the misdemeanour was committed. In situations falling under

subsections 2 and 3 of § 12 of this Code, the case or an appeal or challenge filed against a disposition made in the case is dealt with by the district court in whose judicial district the residence or seat indicated in the application lies or – for registrations in Estonia – the relevant motor or rail vehicle or air or water craft has been registered.

(2) When preparing a misdemeanour case for trial, the court verifies whether it has jurisdiction over the case. If the court finds that it does not have jurisdiction, it orders transfer of the case to a court that has jurisdiction. Only urgent procedural operations may be performed before the case is transferred.

(3) Where the district court contests jurisdiction over a misdemeanour case received from another court, the issue of jurisdiction is disposed of, within the judicial circuit of the circuit court of appeal, by the Chief Judge of that court or, in other cases, by the Chief Justice of the Supreme Court. If the circuit court of appeal contests jurisdiction over a misdemeanour case received from another court, the issue of jurisdiction is disposed of by the Chief Justice of the Supreme Court.

(4) Where a judge's authorisation is required for the performance of a procedural operation in out-of-court proceedings, such authorisation is granted by the district court judge in whose judicial district the procedural operation is to be performed.

(5) An appeal filed under § 78 of this Code against the actions of an out-of-court proceedings authority is disposed of by the district judge in whose judicial district the contested order was made or the contested procedural operation was performed.

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

#### **§ 15. Court panel to conduct the trial or hearing of a misdemeanour case**

(1) In the district court, the trial of a misdemeanour case or of an appeal filed against the decision of an out-of-court proceedings authority is conducted by a district judge sitting alone.

(2) In the circuit court of appeal, a misdemeanour case is heard by a panel of three judges. Preliminary proceedings in such a case are conducted by a single circuit court judge.

(3) In the Supreme Court, a misdemeanour case is considered by a panel of at least three judges.

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

## **Subchapter 2 Party to Proceedings and the Parties to Judicial Proceedings in Misdemeanour Procedure**

#### **§ 16. Party to proceedings**

'Party to proceedings' means the person subject to proceedings and their defence counsel.

#### **§ 17. Parties to judicial proceedings**

(1) The parties to judicial proceedings are the party to proceedings and the out-of-court proceedings authority.

(2) Before the Supreme Court, the parties to judicial proceedings are an attorney serving as defence counsel of the person subject to proceedings or of the offender, and the out-of-court proceedings authority or an attorney who represents the authority.

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

#### **§ 18. Person subject to proceedings; an offender**

(1) The person subject to proceedings is a natural or legal person in whose respect misdemeanour proceedings have been commenced.

[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

(1<sup>1</sup>) The following are not deemed to be persons subject to proceedings:

- 1) a vehicle's owner or authorised user to whom a penalty notice is sent under the written caution procedure;
- 2) a person subjected to the abridged procedure.

[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

(2) A person subject to proceedings on whom a sanction has been imposed by disposition of an out-of-court proceedings authority or by judgment – the disposition or judgment having entered into effect – is an offender.

(3) Where the person subject to proceedings or the offender is a legal entity, their statutory representative enjoys all the rights of a principal and may give statements or testify in the name of the entity.

## **§ 19. Rights and obligations of the person subject to proceedings**

- (1) The person subject to proceedings has a right to:
- 1) know what misdemeanour the proceedings against them are for;
  - 2) be assisted by a defence counsel in accordance with the rules provided by subsections 2 and 3 of this section;
  - 3) be present in court at the trial of their misdemeanour case;
  - 4) give testimony, offer evidence and make applications or motions;
  - 4<sup>1</sup>) apply for permission to pay the fine or serve the short-term custodial sentence in parts;  
[RT I, 22.02.2023, 1 – entry into force 01.11.2023]
  - 5) know the purpose of the procedural operation that is being performed;
  - 6) acquaint themselves with any reports of procedural operations performed in the case as well as with any audio or video recordings of such operations and make representations – to be noted in the record of proceedings or audio or video recorded – concerning the conditions and course of procedural operations, concerning any results of proceedings, concerning the reports and recordings of procedural operations;  
[RT I, 06.07.2013, 3 – entry into force 16.07.2013]
  - 7) contest any procedural operation or disposition of the out-of-court proceedings authority or of the court in accordance with the rules provided by this Code.

- (1<sup>1</sup>) An underage person subject to proceedings has the rights that are provided for under criminal procedure with regard to underage persons suspected or accused of a criminal offence:
- 1) if they have been arrested under subsection 1 of § 44 of this Code;
  - 2) in judicial proceedings.  
[RT I, 20.12.2019, 1 – entry into force 30.12.2019]

(2) The person subject to proceedings has a right to contact defence counsel from the time of their arrest or from the time any other procedural operation is performed which is the first in the case. When detaining a person or performing any other procedural operation as the first in the case, the proceedings authority must allow the person subject to those proceedings to use the means of communication at their disposal in order to contact defence counsel. Defence counsel may participate in the performance of procedural operations concerning the person subject to proceedings, yet non-appearance of the counsel does not stay the performance of the act.  
[RT I 2003, 26, 156 – entry into force 21.03.2003]

(3) The participation of defence counsel is mandatory starting from the commencement of judicial proceedings if the person subject to proceedings is 14 to 18 years of age or is unable to represent themselves due to a mental disorder.

- (4) The person subject to proceedings is required to:
- 1) appear when summoned by the proceedings authority if the summons states that appearance is mandatory;
  - 2) comply with lawful directions of the proceedings authority.

## **Subchapter 3 Defence Counsel in Misdemeanour Proceedings**

### **§ 20. Defence counsel**

(1) Persons subject to proceedings and offenders may retain a defence counsel who must be an attorney or, with the permission of the proceedings authority, a person who has been awarded at least an officially recognised Master's degree in law or a qualification that, under subsection 2<sup>2</sup> of § 28 of the Republic of Estonia Education Act, is equivalent to such a degree, or an equivalent foreign qualification.  
[RT I 2008, 29, 189 – entry into force 01.07.2008]

(2) The authority of a defence counsel is proved by a power of attorney.

(3) A defence counsel may have several principals if the interests of such principals are not in conflict. A person subject to proceedings or an offender may not have more than two counsel.

(4) An offender's appeal to the Supreme Court or application for review of a judicial disposition that has entered into effect is to be filed through an attorney.  
[RT I 2005, 71, 549 – entry into force 01.01.2006]

### **§ 21. Rights and obligations, and the recusing, of defence counsel**

- (1) The defence counsel is entitled to:

- 1) participate in proceedings starting from the arrest of the person subject to proceedings or from the performance of another procedural operation performed as the first in the case concerning that person, while non-appearance of the counsel does not stay the performance of any procedural operation;
- 2) receive from any natural or legal persons the documents necessary for the provision of legal assistance to the person being defended;
- 3) offer evidence as well as make motions, representations and applications;
- 4) with the knowledge of the proceedings authority, use technical equipment in the performance of their defence obligations provided this does not interfere with the procedural operation.

(2) Following the rules provided by this Code, the defence counsel has a right to:

- 1) participate in proceedings together with the person subject to those proceedings or independently;
- 2) contest a procedural operation or disposition of the proceedings authority.

(3) Where the grounds provided by subsection 3 of § 19 of this Code are present, the participation of defence counsel is mandatory starting from commencement of judicial proceedings.

(4) Under misdemeanour procedure, defence counsel are recused on the grounds provided by, and following the rules of, criminal procedure.

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

## **§ 22. Grant of legal aid**

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

(1) In misdemeanour proceedings, legal aid is granted on the grounds and in accordance with the rules provided by the State-funded Legal aid Act.

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

(2) If the court finds that the person subject to proceedings is unable to protect their rights or that, without the assistance of an attorney, their essential interests in judicial proceedings may fail to be protected, the court may, of its own motion, decide to grant legal aid to the person on the grounds and in accordance with the rules provided by the State-funded Legal Aid Act.

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

(3) If a person falling under subsection 3 of § 19 of this Code has not chosen a defence counsel for themselves, the Bar Association appoints a counsel for them on a motion 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 order made concerning the grant of legal aid is placed in the misdemeanour file.

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

## **§ 23. Compensation for defence counsel's fee if misdemeanour proceedings are terminated**

If misdemeanour proceedings are terminated on the grounds provided by clauses 1–3 and 5–6 of subsection 1 of § 29, a reasonable fee paid by the person subject to proceedings to the defence counsel chosen by that person is reimbursed, on an application of the person and on the basis of the corresponding court order, to the person from the funds of the national budget or from those of a local one.

[RT I 2003, 26, 156 – entry into force 21.03.2003, applied retroactively 01.09. 2002]

# **Subchapter 4 Experts and Interpreters or Translators in Misdemeanour Proceedings**

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

(1) Experts participate in misdemeanour proceedings and recuse themselves or are recused on the grounds provided by, and following the rules of, criminal procedure.

(2) In out-of-court proceedings, interpreters or translators are enlisted to participate in a procedural operation on an application of the party to proceedings or of the witness; an interpreter or translator is enlisted to participate in judicial proceedings whenever necessary. Interpreters or translators recuse themselves or are recused on the grounds provided by, and following the rules of, criminal procedure.

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

## **Subchapter 5**



# **Grounds for Self-recusal of Officials of the Out-of-court Proceedings Authority and of the Judge; Recusing an Official of the Out-of-court Proceedings Authority or the Judge**

## **§ 25. Grounds for self-recusal of officials of the out-of-court proceedings authority or of the judge**

(1) Officials of the out-of-court proceedings authority, or the judge, are required to self-recuse where:

- 1) they are a person close to the person subject to proceedings, which means a lineally ascending relative or descendant or first- or second-degree collateral relative, or are or have been a first-degree relative by marriage, an adoptive parent, an adoptive child, the spouse or registered partner of the person subject to proceedings; [RT I, 06.07.2023, 6 – entry into force 01.01.2024]
- 2) they have previously conducted proceedings in the same misdemeanour case;
- 3) for any other reason, it is not possible for them to remain impartial.

(2) The judge's participation as a member of the panel of the Criminal Chamber of the Supreme Court does not constitute a ground for the judge to self-recuse in the event of further proceedings in the same misdemeanour case before the Supreme Court.

(3) Unjustified self-recusal from proceedings in a misdemeanour case is not allowed.

(4) Persons who, within the meaning of clause 1 of subsection 1 of this section, have a close relationship or are close to the person subject to proceedings may not serve on the judicial panel dealing with the case.

(5) Officials of the out-of-court proceedings authority or the judge effects their self-recusal by a reasoned self-recusal order that is included in the misdemeanour file.

## **§ 26. Recusing the official of the out-of-court proceedings authority or the judge**

(1) Where the official of the out-of-court proceedings authority, or the judge, does not self-recuse when the grounds for recusal provided for by subsection 1 of § 25 of this Code are present, the party to proceedings may make an application or motion to recuse, respectively, the official or the judge. In judicial proceedings, the motion to recuse the judge may also be made by the out-of-court proceedings authority. On having learned of the grounds for recusal, the application or motion to recuse the official or the judge is made without delay.

(2) An application to recuse the official of the out-of-court proceedings authority may be made until the rendering of the disposition in the misdemeanour case.

(3) A motion to recuse the judge may be made until the end of the lead-in stage of the trial of the misdemeanour case or of an appeal against the disposition made in the case. If the ground for recusal is discovered at a later stage, and is notified without delay to the judge, the motion for recusal may be made until the end of the substantive stage of the trial.

(4) The official of the out-of-court proceedings authority self-recuses by a reasoned order or, when denying the application for recusal, states the reasons for their non-recusal in the disposition rendered in the misdemeanour case. A judge dealing with the misdemeanour case as a judge sitting alone disposes of the recusal motion by making a separate order without convening a hearing, or by making a reasoned order that is noted in the record of the hearing or, when denying the application, states the reasons for non-recusal in the disposition rendered in the case.

(5) Where the court considers an appeal as a panel, it hears the explanations of the judge whose recusal is sought as well as the opinion of the person subject to proceedings and of their representative. The application to recuse is disposed of by an order made in the deliberation room. A motion to recuse a single member of the panel is disposed of by the rest of the panel without the presence of the judge to be recused. If the votes against and in favour of the motion are divided equally, the judge is deemed recused. A motion to recuse several members of the panel, or the entire panel, is disposed of by the panel by a simple majority vote.

(6) Where a recusal application or motion has been made, the official of the out-of-court proceedings authority or the judge, as the case may be, may only perform urgent procedural operations before disposing of the application or motion.

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

## **§ 27. Filing an appeal against denial of the application or motion to recuse the official of the out-of-court proceedings authority or the judge**

A party to proceedings who has filed an application or motion to recuse the official of the out-of-court proceedings authority or a motion to recuse the judge may raise objections concerning denial of their application

or motion in the appeal filed against the disposition rendered in the case. Objections may include a reference to the ground for self-recusal of the official or of the judge where the application or motion was filed within the prescribed time limit but was denied or where the ground for self-recusal came to light after the misdemeanour case had been disposed of.

### **Chapter 3**

## **PARTICIPATION OF THE PROCEEDINGS AUTHORITY IN JUDICIAL PROCEEDINGS**

#### **§ 28. Rights and obligations of the out-of-court proceedings authority in judicial proceedings**

(1) The out-of-court proceedings authority has a right to participate in judicial proceedings conducted in the case.

(2) In judicial proceedings, the out-of-court proceedings authority has a right to:

- 1) participate in the trial of the misdemeanour case;
- 2) offer evidence and make applications or motions;
- 3) acquaint itself with the misdemeanour file;
- 4) contest the disposition of the court in accordance with the rules prescribed by this Code.

(3) In judicial proceedings, an official of the out-of-court proceedings authority is required to:

- 1) appear when summoned by the court if mandatory appearance is indicated in the summons;
- 2) comply with lawful directions of the court.

### **Chapter 4**

## **CIRCUMSTANCES PRECLUDING, AND GROUNDS FOR TERMINATION OF, MISDEMEANOUR PROCEEDINGS**

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

(1) Misdemeanour proceedings are not commenced and, if they have been commenced, have to be terminated if:

- 1) the act in question does not contain the elements of a misdemeanour;
- 2) the person has already been sanctioned for the same act, regardless of whether the sanction was imposed in the Republic of Estonia or in another state;
- 3) a disposition to terminate misdemeanour proceedings concerning the same act has been made in respect of the person;
- 4) the act in question contains the elements of a criminal offence;
- 5) the limitation period for the misdemeanour has expired;
- 6) the Act which prescribed a sanction for the misdemeanour has been repealed;
- 7) the person in whose respect the misdemeanour proceedings are to be or have been commenced is dead or, in the case of a legal person, has been dissolved.

(2) With respect to a minor who, when they committed the unlawful act, is deemed incapable of forming *mens rea* grounds of their age, but is a child in need of assistance for the purposes of § 26 of the Child Protection Act, the out-of-court proceedings authority, or the court, sends a notification, and a copy of the requisite portion of the documents of the relevant misdemeanour case, to the municipality in whose administrative territory the minor has their residence.

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

(3) Regardless of the provision made in subsection 1 of this section, misdemeanour proceedings are commenced on an application made by the person subject to proceedings in order to rehabilitate themselves, provided the limitation period has not expired.

#### **§ 29<sup>1</sup>. Termination of misdemeanour proceedings due to unidentifiability of the person who committed the misdemeanour**

(1) Where, in out-of-court proceedings, the person who committed the misdemeanour has not been identified, and the taking of additional evidence is not possible or not expedient, the proceedings are terminated. Proceedings may be terminated also in part – concerning a certain person subject to the same or a certain misdemeanour.

(2) Where the grounds provided for by subsection 1 of this section cease to apply, proceedings are reinstated following the rules provided by subsection 1 of § 58 of this Code.

[RT I, 11.03.2023, 2 – entry into force 01.05.2023]

### **§ 30. Termination of misdemeanour proceedings for considerations of practical expediency**

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

(1) The proceedings authority may terminate misdemeanour proceedings if:

1) the person subject to proceedings is not culpable to a high degree and there is no public interest in continuing the proceedings;

1<sup>1</sup>) the conditions are present for deciding not to commence misdemeanour proceedings in relation to a misdemeanour of minor importance provided for by § 3<sup>1</sup> of this Code;

[RT I, 11.03.2023, 2 – entry into force 01.05.2023]

2) the person subject to proceedings has voluntarily compensated for or remedied the harm caused by the misdemeanour;

3) the person subject to proceedings has undertaken to participate in a community programme or

4) the underage person subject to proceedings has undertaken to have recourse to a mediation service or has assumed another appropriate obligation.

[RT I, 06.01.2023, 1 – entry into force 01.04.2023]

(1<sup>1</sup>) Compliance with the obligation provided by clause 3 of subsection 1 of this section is based on the minimum period of application of the specific community programme, which must not exceed ten months. The out-of-court proceedings authority appends to the misdemeanour file a summary of the completion of the social programme.

(1<sup>2</sup>) If the person in whose respect misdemeanour proceedings were terminated on the basis of clause 3 or 4 of subsection 1 of this section does not perform the obligation assumed or commits a new offence during participation in the community programme, recourse to the mediation service or performance of the obligation, the out-of-court proceedings authority may resume proceedings by making the corresponding order. If a sanction is imposed on the person as a result of resumed proceedings, the period of participation in the community programme or recourse to the mediation service is not deducted from the sanction.

[RT I, 06.01.2023, 1 – entry into force 01.04.2023]

(1<sup>3</sup>) In the case of termination of misdemeanour proceedings on the grounds provided by subsection 1 of this section, the person subject to proceedings reimburses the costs of the case. The costs of the case of an underage person subject to proceedings are borne by the State.

(1<sup>4</sup>) When determining the costs of the case, the proceedings authority has regard to the provisions made in subsection 3 of § 180 of the Code of Criminal Procedure.

(2) If the out-of-court proceedings authority finds that a person who was at least fourteen but less than eighteen years of age when they committed the misdemeanour should not be subjected to a sanction or to a rehabilitation measure provided for by subsection 2 of § 87 of the Penal Code, the authority may caution such a person, terminate the proceedings and, if the person is a child in need of assistance for the purposes of § 26 of the Child Protection Act, send a notification regarding the child, and a copy of the requisite portion of the documents of the misdemeanour case, to the municipality in whose administrative territory the child's residence lies.

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

## **Chapter 5 PROCEDURAL OPERATIONS, PROCEDURAL TIME LIMITS AND CASE COSTS**

### **§ 31. Collection of evidence and application of provisions of criminal procedure when performing procedural operations**

(1) Under misdemeanour procedure, the offering and collection of evidence is subject to the relevant provisions of criminal procedure without prejudice to special rules provided by this Code.

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

(1<sup>1</sup>) If the place, time or manner, or other aspects, of the commission of the misdemeanour have been photo or video recorded in the course of a law enforcement operation, the recording may be used as an independent evidentiary item in misdemeanour proceedings, provided the following are apparent from that recording:

1) the link between the recording and the misdemeanour case;

2) when, under what circumstances and by whom the recording was created;

3) other facts which are relevant for the purposes of resolving the misdemeanour case.

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

(2) The out-of-court proceedings authority, and the court, has a right to require a natural or legal person to produce any documents or physical or other objects required for resolving the misdemeanour case.

(3) Where this is unavoidably necessary to accomplish the aim of proceedings concerning a corruption misdemeanour, the out-of-court proceedings authority may apply to the court for an order allowing access to banking secrets and to data in the Register of Fund Units.  
[RT I, 29.06.2012, 1 – entry into force 01.04.2013]

### **§ 31<sup>1</sup>. Fingerprinting, capturing the facial image of, and taking a DNA as well as a voice sample from, the person subject to proceedings**

[RT I, 03.02.2023, 1 – entry into force 01.09.2023]

(1) The person subject to proceedings in whose respect there is reason to believe that they have committed an offence defined in § 15<sup>1</sup> of the Act on Narcotic Drugs and Psychotropic Substances and their Precursors or in § 218 of the Penal Code, may be fingerprinted, their facial image may be captured, and a DNA as well as a voice sample may be taken from them for the purposes of offence proceedings and for the purposes of detection and prevention of offences.

(2) The person's facial image as well as the prints of their papillary skin ridges are recorded in the database of the Automated Biometric Identification System (hereinafter, 'ABIS Database'). The person's biographical data as well as particulars concerning the capturing of their facial image and the recording of the prints of their papillary skin ridges, as well as their voice sample and the data obtained on analysis of their DNA sample are recorded in the National Offence Proceedings Database of Biometrics.  
[RT I, 03.02.2023, 1 – entry into force 01.09.2023]

### **§ 31<sup>2</sup>. Requiring electronic communications undertakings to provide data**

(1) The Data Protection Inspectorate, the Financial Supervision Authority, the Estonian Internal Security Service, the Environmental Board, the Tax and Customs Board, the Financial Intelligence Unit and the Police and Border Guard Board may address enquiries to electronic communications undertakings concerning the data required to identify an end user linked to certain identification tokens used in a public electronic communications network, except for data relating to facts of transmission of messages.  
[RT I, 10.07.2020, 1 – entry into force 01.01.2021, amended in part [RT I, 21.11.2020, 1] and [RT I, 10.07.2020, 2]]

(2) With the permission of the court, the authorities mentioned in subsection 1 of this section may address individual enquiries to electronic communications undertakings concerning the data listed in subsections 2 and 3 of § 111<sup>1</sup> of the Electronic Communications Act but not mentioned in the first subsection of this section. For the purposes of this section, an individual enquiry means a written enquiry for obtaining the information mentioned in subsections 2 and 3 of § 111<sup>1</sup> concerning a communication session related to transmitting a particular telephone call, email, electronic comment or other individual message.

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

(4) The Consumer Protection and Technical Regulatory Authority may make enquiries to an electronic communications undertaking concerning the data required to identify an end user related to certain identification tokens used in a public electronic communications network.  
[RT I, 08.01.2020, 1 – entry into force 17.01.2020]

### **§ 31<sup>3</sup>. Official of the out-of-court proceedings authority as source of evidence**

(1) The official of the out-of-court proceedings authority in the case who directly perceived any aspects of the commission of the misdemeanour and who described these in the misdemeanour investigation report or in the decision made under expedited procedure may participate in judicial proceedings or in proceedings on complaints or challenges in the case as a witness concerning the factual circumstances perceived by them.  
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(2) The official referred to in subsection 1 of this section may not participate in judicial proceedings or proceedings related to any appeal in the case as a representative of the authority that conducted out-of-court proceedings in that case.  
[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) Under misdemeanour procedure, photographs, films or other data recordings made by the proceedings authority may constitute an independent item of evidence provided they conform to the provisions of clauses 1–3 of subsection 1<sup>1</sup> of § 31 of this Code.

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

(2) A note is made in the misdemeanour investigation report or in the decision made under expedited procedure concerning any applications made by persons who were present during the photographing, filming or other recording, or concerning the absence of such applications.

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

### **§ 31<sup>5</sup>. Data in national databases**

If the commission of a misdemeanour is proven by the data of a national database which have legal significance and the enquiry made to the database can be repeated, a note concerning the making of the enquiry to the database is made in the misdemeanour investigation report or in the decision made under expedited procedure.

The note must 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]

### **§ 31<sup>6</sup>. ABIS Database**

(1) The ABIS Database is an electronic database whose aim, for the purposes of this Code, is to process – for the purposes of offence proceedings and for the detection and prevention of offences – biometric data obtained by fingerprinting, and by capturing the facial image of, the person subject to proceedings in whose respect there is reason to believe that they have committed an offence defined in § 15<sup>1</sup> of the Act on Narcotic Drugs and Psychotropic Substances and their Precursors and in § 218 of the Penal Code.

[RT I, 03.02.2023, 1 – entry into force 01.09.2023] (2) The processing of data that have been entered in the ABIS Database is subject to the provisions of § 15<sup>5</sup> of the Identity Documents Act.

(3) The ABIS Database is established and its Constitutive Regulations are adopted by a regulation of the Government of the Republic.

(4) Data controllers of the ABIS Database are the Police and Border Guard Board and the Estonian Forensic Science Institute. The Database's processors are designated in its Constitutive Regulations.

(5) The composition of the data to be recorded in the ABIS Database and the time limit for retention of such data are provided by the Constitutive Regulations of the Database.

(6) Data in the ABIS Database are subject to an access restriction and have been declared to constitute data intended for internal use.

[RT I, 08.07.2021, 1 – entry into force 15.07.2021]

### **§ 32. Prohibition to collect evidence by covert operations**

(1) Under misdemeanour procedure, the collection of evidence by means of covert operations is prohibited.

(2) Evidence collected by means of a covert operation in criminal proceedings may be used as evidence in misdemeanour proceedings provided criminal proceedings in the case have been terminated.

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

Under misdemeanour procedure, witnesses may not be declared anonymous.

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

When interviewed under misdemeanour procedure, a witness does not have a right to a representative.

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

### **§ 34. Special rules concerning physical examination of persons**

(1) Physical examination of persons may be conducted by an official of the out-of-court proceedings authority who, according to § 45 of this Code, is authorised to make arrests.

(2) An official of the out-of-court proceedings authority who does not have the authority to make arrests may make an application to the Police and Border Guard Board to be assisted by a police officer in order to carry out the physical examination. The police officer carries out the physical examination together with the official of the out-of-court proceedings authority.

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

(3) The official of the out-of-court proceedings authority who carried out the physical examination of a person files a report concerning the examination. If the examination was carried out with the assistance of a police officer, the report is also signed by that officer.

### **§ 35. Securing of pecuniary claims**

[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

(1) In misdemeanour proceedings, the attachment of property is prohibited except in situations provided for by subsection 2 of this section.

(2) To secure a confiscation or a fine, measures that have been provided for by §§ 141 and 142 of the Code of Criminal Procedure may be imposed – in accordance with the requirements of criminal procedure, without prejudice to special rules of misdemeanour procedure – on a legal person who is subject to proceedings.

(3) Measures provided for by subsection 2 of this section are imposed by order of the district court on an application of the out-of-court proceedings authority.

[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

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

In misdemeanour proceedings, the attachment of property is prohibited.

### **§ 37. Prohibition on application of preventive measures provided for under criminal procedure**

Unless otherwise provided by this Code, the application in misdemeanour proceedings of any preventive measures provided for under criminal procedure is prohibited.

### **§ 38. Procedural time limits; costs of proceedings authorities and of courts**

(1) Under out-of-court as well as court procedure, procedural time limits are calculated and reinstated and case costs are calculated following the relevant provisions of criminal procedure.

(2) The Government of the Republic enacts guidelines for reimbursement of costs to participants of trials or hearings in misdemeanour cases.

## **Chapter 6**

# **SUMMONING AND THE IMPOSITION OF FINES AND FORCIBLE BRINGING-IN IN CASE OF NON-APPEARANCE**

### **§ 39. Ascertaining the whereabouts of the person subject to proceedings**

If the whereabouts of the person subject to proceedings are unknown, they are to be ascertained by the out-of-court proceedings authority or, in judicial proceedings, by the court.

### **§ 40. Summons**

(1) Persons are summoned to appear before the proceedings authority by a summons.

(2) A summons sent to a person contains the following particulars:

1) where a natural person is being summoned, their given name, surname and residential address; where a legal person is being summoned, their name and the address of their seat;

2) where an out-of-court proceedings authority is being summoned, the name and the address of the seat of the authority;

3) the reason for summoning the person, and the capacity in which the person is summoned;

4) the legal designation of the misdemeanour and, if misdemeanour proceedings have been commenced with respect to a specific person, their given name and surname;

5) the time and place of appearance;

6) where the person subject to proceedings is being summoned, their rights and obligations according to § 19 of this Code;

7) whether, where the person subject to proceedings is being summoned, their appearance is mandatory, and the consequences of non-appearance according to § 43 of this Code;

8) whether, where the out-of-court proceedings authority is being summoned, their appearance is mandatory;

9) where a witness is being summoned, the obligatory nature of their appearance, and the consequences of non-appearance according to § 43 of this Code;

10) the obligation to give notice of non-appearance and of its reasons.

(3) The final part of the summons contains a notice form which is completed if the summons is delivered to the person against signed acknowledgement of receipt. The form states the given name and surname of the person to whom the summons is addressed, the person's signed acknowledgement of receipt for having received the

summons and the date of receiving the summons. If the person refuses to accept the summons, a note by the proceedings authority concerning such refusal, the date of the refusal and the signature and official title of the authority.

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

#### **§ 41. Rules for the service of summonses**

(1) A summons is delivered to the person to whom it is addressed against signed acknowledgement of receipt – according to subsection 2 of this section – or served on the person by post in the form of a registered letter to be delivered under a notice of delivery – according to subsection 3 – or sent by electronic means, according to subsection 4.

(2) A summons is delivered to an adult or to a minor of at least 14 years of age against signed acknowledgement of receipt on the notice form in which the time of delivery of the summons is noted. If it was not possible to deliver the summons to the addressee, it is delivered, against signed acknowledgement of receipt on the notice form, to a family member of at least 14 years of age who lives with the addressee, and the time of delivery is noted. If the person refuses to sign an acknowledgement for receiving the summons, their refusal to accept the summons and the date of the refusal is noted in the notice form. The summons is deemed to have been received by the person as of the date on which they refused to accept it.

(3) A summons sent by post is deemed to have been received by the addressee on the date indicated in the notice of delivery form completed by the postal service provider.

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

(4) Where the service of a summons is to be effected by electronic means, the summons is sent to the email address that is indicated by the addressee in a procedural document or that is published on the Internet. The summons must include a digital signature and must be protected from third parties. When sending the summons, a note is included in the message stating that receipt of the summons has to be acknowledged without delay by an email message to the sender's address. A summons sent by electronic means is deemed to have been received by the addressee as of the date of acknowledgement of its receipt. If receipt of the summons is not acknowledged within three days following its sending, the summons is sent in the form of a registered letter under a notice of delivery or delivered to the person by the proceedings authority against signed acknowledgement of receipt.

(4<sup>1</sup>) Where a summons is made accessible through the E-file system, a notice concerning the issue of the summons is sent to the addressee's email address that has been indicated in a procedural document or published on the Internet. The notice must include a link to the digital summons in the E-file system and the time limit for viewing that summons, which is three days from the moment of sending the message. If the sender and the time of sending can be identified through the E-file system, no digital signature is included in the summons. A summons made accessible through the E-file system is deemed to have been served if the recipient opens it in the information system or acknowledges its receipt in the information system without opening the document, as well as if the corresponding actions are performed by another person for whom the recipient has made it possible to view documents in the information system. If the recipient or such other person has not acquainted themselves with the summons in the E-file system within three days following the sending of the notice, the summons is sent in the form of a registered letter under a notice of delivery or delivered to the addressee against signed acknowledgement of receipt.

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

(5) A summons must be served on the person subject to proceedings and their defence counsel with sufficient notice to make it possible for them to appear. When the summons is served on a defence counsel chosen by the person subject to proceedings, it is deemed also to have been served on the principal of such a counsel.

(6) A summons addressed to a minor of less than 14 years of age or to a person suffering from a mental disorder is sent to their parent or other statutory representative.

(7) If the person subject to proceedings has made their residence or seat known in a procedural document that they have signed, the summons is sent to the person to the address that has been made known. If the person has not notified the proceedings authority of having changed their address, the summons is sent to their last address that is known to the authority.

(8) Any notice read by an official of the out-of-court proceedings authority or by a judge to a party to proceedings personally is deemed equivalent to a summons delivered against signed acknowledgement of receipt, provided a corresponding note has been made in the relevant procedural document.

(9) The notice of delivery form completed by the postal service provider, the notice form mentioned in subsection 3 of § 40 of this Code concerning receipt of the summons, a printout of the email message concerning the issue of the summons and a printout of the acknowledgement are included in the misdemeanour file.

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

(10) The Minister in charge of the policy sector may, by regulation, enact specific requirements for electronic service of procedural documents in judicial proceedings through the E-file system.

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

#### **§ 42. Valid reasons for non-appearance of the person summoned**

(1) If it is not possible for the person summoned to appear before the proceedings authority at the time specified in the summons, they must give notice of this without delay.

(2) Valid reasons for non-appearance are:

- 1) the person summoned not being present in the locality, where this cannot be considered an evasion of misdemeanour proceedings;
- 2) a delay in receiving the summons;
- 3) other reasons that the proceedings authority regards as valid.

#### **§ 43. Non-appearance: imposition of fines or ordering the person forcibly brought in**

(1) If the person subject to proceedings who has received a summons in which mandatory appearance is indicated, or if a witness who has received the summons, does not appear in court, the court makes an order by which it imposes a fine in the amount of up to 30 fine units on the person or witness.

(2) The court may release the persons referred to in subsection 1 of this section from the liability to pay the fine imposed on them if they prove that their non-appearance in court was due to a valid reason provided by subsection 2 of § 42 of this Code.

(3) If the persons referred to in subsection 1 of this section have received the summons and have not appeared before the out-of-court proceedings authority or before the court, the authority or the court may, by order, direct that they be brought in forcibly.

(4) Forcible bringing-in is carried out by the police.

## **Chapter 7 MAKING AN ARREST**

#### **§ 44. Grounds and time limit for an arrest**

(1) A person in whose respect there is a justified reason to believe that they have committed a misdemeanour may be arrested for up to 48 hours if:

- 1) they attempt to escape;
- 2) their identity has not been ascertained;
- 3) they are likely to continue to commit misdemeanours;
- 4) they are likely to hinder or evade misdemeanour proceedings.

(2) When a person is arrested:

1) they are taken to the Police and Border Guard Board facility or to the official premises of the out-of-court proceedings authority who, under § 45 of this Code, has the power to make arrests, or to a police jail or to a prison;

[RT I, 03.03.2021, 1 – entry into force 04.03.2021]

2) their statement regarding the commission of the misdemeanour is taken without delay and a report on their arrest, or a misdemeanour investigation report, is drawn up;

3) they are taken without delay to the district court for trial if they have committed a misdemeanour and the out-of-court proceedings authority deems it necessary to impose a short-term custodial sentence, and the corresponding misdemeanour investigation report and other procedural documents have been drawn up. In such a situation, the person subject to proceedings may present an objection to the court.

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

(3) An arrest commences when the person is detained. The time spent under arrest is counted toward the term of custodial sentence in accordance with the rules provided by subsection 2 of § 68 of the Penal Code.

(4) If it becomes apparent that there is no reason to hold the person, they are released without delay.

(5) If the person has not been arrested on the grounds provided by subsection 1 of this section, the time taken up by interviewing them or by performing any other procedural operation in their respect is not deemed time spent under arrest.

(6) The provisions of subsections 2–4 of § 35<sup>1</sup> of the Code of Criminal Procedure do not apply upon the making of arrests under this Code.

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



#### **§ 45. Persons authorised to make arrests**

(1) On the grounds and following the rules provided by § 44 of this Code, the following officials of proceedings authorities are authorised to make arrests:

- 1) police officers or officials of the Tax and Customs Board authorised to enforce customs legislation;  
[RT I, 16.06.2017, 1 – entry into force 01.07.2017]
- 2) officials authorised to enforce civil aviation safety rules, maritime safety rules, railway safety rules or railway traffic rules;
- 3) environment officials performing hunting, fishing or forestry enforcement, or enforcement of a restricted flying zone;  
[RT I, 29.06.2022, 1 – entry into force 09.07.2022]
- 4) prison officials – in the case of the misdemeanour defined in subsection 1 of § 325 of the Penal Code or in § 60<sup>14</sup> of the Aviation Act;  
[RT I, 29.06.2022, 1 – entry into force 09.07.2022]
- 5) officials vested with enforcement authority regarding the Defence Forces – in the case of the misdemeanour defined in § 60<sup>14</sup> of the Aviation Act;  
[RT I, 29.06.2022, 1 – entry into force 09.07.2022]
- 6) officials of the Defence Forces – in the case of the misdemeanours defined in § 224<sup>1</sup> of the Military Service Act and of §§ 56<sup>2</sup> and 56<sup>3</sup> of the Estonian Defence Forces Organisation Act.  
[RT I, 27.01.2023, 1 – entry into force 01.04.2023]

(2) An official of the out-of-court proceedings authority who does not have the authority to make arrests may make an application to the Police and Border Guard Board to be assisted by a police officer in the making of an arrest on the grounds provided by subsection 1 of § 44 of this Code. The police officer makes the arrest together with the official of the out-of-court proceedings authority who made the application.  
[RT I, 29.12.2011, 1 – entry into force 01.01.2012]

#### **§ 46. Arrest report**

(1) A report is drawn up concerning an arrest made on the grounds provided by subsection 1 of § 44 of this Code. The drawing up of an arrest report is not required if a misdemeanour investigation report is drawn up on making the arrest and the information listed in subsection 4 of § 69 of this Code is recorded in that report.

(2) An arrest report states:

- 1) the place and date of the corresponding procedural operation;
- 2) the name of the out-of-court proceedings authority and the position, given name and surname of the official of the authority filing the report;
- 3) the position, given name and surname of the police officer with whose assistance the arrest was made;
- 4) the given name and surname of the person subject to proceedings;
- 5) the time of and grounds for the arrest together with a reference to subsection 1 of § 44 of this Code;
- 6) the place, date and hour of the arrest;
- 7) the legal designation of the misdemeanour;
- 8) the explanation, to the person subject to proceedings, of their rights and obligations according to § 19 of this Code;
- 9) a description of the clothes and footwear of the person arrested and information concerning any external injuries;
- 10) a list of the objects taken from the person at the time of their arrest, and the identifying features of those objects;
- 11) any representations or applications made by the prisoner;
- 12) the provision of procedural law that served as the basis for the procedural operation.

(3) The report is signed by the person filing it and by the police officer who assisted in the making of the arrest. The person subject to proceedings signs the report to acknowledge that they have been apprised of its content and that the rights and obligations provided by § 19 of this Code have been explained to them. If the person subject to proceedings refuses to sign the report, a corresponding entry is made in that report.

(4) On an application of the person subject to proceedings, at least one person of their choice is notified of their location. If the person arrested is a minor, their arrest has to be notified without delay to their parent or guardian or curator and to the Social Services Department.

## **Chapter 8**

# PROCEDURAL DOCUMENTS UNDER MISDEMEANOUR PROCEDURE

## § 47. Procedural documents

(1) Procedural documents are:

- 1) in out-of-court proceedings – the misdemeanour investigation report, reports of procedural operations, and any orders or decisions made by the out-of-court proceedings authority;
- 2) in judicial proceedings – court orders, the record of the trial and the judgment.

(1<sup>1</sup>) With the consent of the person subject to proceedings, provided in a form allowing for reproduction in writing, the filing of a report of the procedural operation may be substituted by making an audio and video recording of the procedural operation, provided the recording contains the information provided for by subsection 2, in clause 1 of subsection 4 and in subsection 5 of § 49 of this Code and an oral acknowledgement by the person subject to proceedings concerning the provision of explanations to them of their rights and obligations, or their refusal to provide such an acknowledgement.

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

(1<sup>2</sup>) If the person subject to proceedings does not consent to the report of the procedural operation being substituted with making an audio and video recording of that operation, the operation is reported following the rules 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 audio and video recording of the procedural operation referred to in clause 1 of subsection 6 of § 19 of this Code after the recording has been viewed or listened to by the person subject to proceedings.

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

(2) Any orders or any reports of procedural operations which are made in the course of collecting evidence in misdemeanour proceedings and which the Code of Misdemeanour Procedure does not regulate are drawn up following the requirements of criminal procedure without prejudice to the rules special to misdemeanour procedure.

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

(1) The court, without delay, makes the procedural documents of judicial proceedings available to the parties to such proceedings in the E-file system regardless of how such documents are to be served on those parties.

(2) The Minister in charge of the policy sector may, by regulation, enact specific requirements for making procedural documents available through an information system.

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

(3) Where the person has not accepted the procedural document within the time limit enacted under subsection 4 of this section, their access to the following information systems and databases that have been interfaced with the information systems prescribed for service of the document is temporarily restricted:

- 1) Electronic Land Register;
- 2) eFile system;
- 3) Electronic Commercial Register.

[RT I, 22.03.2024, 1 – entry into force 01.04.2024]

(4) The minister in charge of the policy sector enacts a time limit for electronic acceptance of the document in the information system mentioned in subsection 3 of this section.

[RT I, 22.03.2024, 1 – entry into force 01.04.2024]

## § 48. Order

(1) An order is:

- 1) a substantiated procedural ruling of the out-of-court proceedings authority or of the court, which is drawn up as a separate procedural document and included in the misdemeanour file;
- 2) in out-of-court proceedings or in judicial proceedings, a procedural ruling which is made to dispose of a singular issue and which is not required to be substantiated.

(2) The introduction of an order that is to be substantiated states:

- 1) the place at and date on which the order is made;
- 2) the name of the court or the out-of-court proceedings authority and the given name, surname and official title of the person making the order;
- 3) the title of the misdemeanour case – the person with regard to whom misdemeanour proceedings have been commenced, and the legal designation of the misdemeanour;

4) the given name, surname and personal identification code of the person subject to proceedings or, where the person is an alien or does not possess a personal identification code, their place and date of birth, nationality, residential address and place of employment or, if the person subject to proceedings is a legal person, their name and registry code or, where they are a foreign legal entity, the combination of numbers or letters equivalent to a registry code, and the address of their seat.

(3) The main part of an order that is to be substantiated must contain:

- 1) the reasons for the procedural ruling;
- 2) the order's basis in procedural law.

(4) The final part of an order to be substantiated states the ruling made to dispose of the issue, and the procedure for appeal against the order. The order is signed by the person who drew it up.

(5) When drawing up an order, any additional requirements for the content of the order are observed.

(6) Compliance with an order of a proceedings authority is mandatory.

#### **§ 49. Report of the procedural operation**

(1) The report of the procedural operation is made in legible handwriting, typed or word-processed. Where this is needed, the assistance of a stenographer may be used.

(2) The introduction of the report states:

- 1) the place and date of the procedural operation;
- 2) the name of the court or of the out-of-court proceedings authority and the official title, given name and surname of the person filing the report;
- 3) the name of the misdemeanour case and the name of the procedural operation;
- 4) where this is provided for by law, a reference to the order on the basis of which the procedural operation was performed;
- 5) the given name, surname and personal identification code of the natural person subjected to the procedural operation, or the name and registry code of the legal person and the given name, surname, place of residence or seat and the procedural role of the representative of the legal person;
- 6) the given name, surname, place of residence or employment and procedural role of any other persons participating in the procedural operation;
- 7) the time of commencement and end and the conditions of the procedural operation;
- 8) explanation to the person of the rights and obligations relating to the procedural operation;
- 9) the provision of procedural law that serves as the basis for the procedural operation.

(3) The party to proceedings is invited to sign the introductory part of the report to acknowledge that their rights and obligations have been explained to them. If they refuse to sign, a corresponding entry is made in the report.

(4) The main part of a report describes:

- 1) the course and results of the procedural operation with the degree of detail that is necessary for evidentiary purposes, observing the additional requirements prescribed by this Code for the substance of the operation in question;
- 2) the use of technical equipment.

(5) The final part of a report lists any objects seized in the course of the procedural operation, the manner in which they are packaged and the place of their storage.

(6) A report is signed by the person who made it.

#### **§ 50. Annex to report of procedural operation**

If this is necessary, and following the rules provided under criminal procedure, evidentiary information in the form of photographs, drawings, footage, audio or video recordings, or in any other form, may be preserved as an annex to the report of the procedural operation.

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

(1) Unless otherwise provided for by this Code, in misdemeanour proceedings any digital applications, complaints, challenges, appeals, objections and other documents are filed with the recipient directly or through the E-file system. A digital document that has been transmitted directly to the recipient is uploaded by the proceedings authority into the E-file system.

(2) Where the case file is kept in paper form, any digital documents are printed out and placed in the file. The proceedings authority certifies the truth of the printed copy and of its correspondence to the digital document by their signature.

[RT I, 03.02.2023, 1 – entry into force 01.05.2023]

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

(1) The misdemeanour file is a set of documents collected in the misdemeanour case.

(2) With respect to each misdemeanour case, the court maintains a court file which includes, in chronological order, all procedural documents and other documentation related to the case. Where this is prescribed by law, other objects related to the proceedings are appended to the court file.

(2<sup>1</sup>) The misdemeanour file and the court file of the misdemeanour case may be kept – in part or in its entirety – in the digital form.

[RT I, 03.02.2023, 1 – entry into force 01.05.2023]

(3) In addition to the provisions of this Code, the case file is also subject to the provisions of subsections 5, 6 and 7 of § 160<sup>1</sup> of the Code of Criminal Procedure.

[RT I, 03.02.2023, 1 – entry into force 01.05.2023]

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

(1) The Minister in charge of the policy sector establishes model forms of documents for out-of-court proceedings in misdemeanour cases.

(2) The Minister in charge of the policy sector enacts rules for the filing, transmission and preservation of documents to be signed digitally in misdemeanour proceedings, and of other digital documents.

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

(3) Where the case file is kept in the digital form, the requirements contained in this Code concerning the creation, issue, transmission and preservation of documents are applied in accordance with the need to keep the file in the digital form.

[RT I, 03.02.2023, 1 – entry into force 01.05.2023]

(4) Where this Code provides for the document to be signed, any other reproducible certification provided by the signer is deemed equivalent to the signing, provided the person providing the certification and the time of certification can be established.

[RT I, 03.02.2023, 1 – entry into force 01.05.2023]

# **Chapter 9 JURISDICTION OVER MISDEMEANOURS PROVIDED FOR BY THE PENAL CODE**

## **§ 52. Proceedings authorities concerning misdemeanours provided for by the Penal Code**

(1) Out-of-court proceedings concerning the misdemeanours defined in subsections 3 and 5 of § 108, in subsections 1 and 3 of § 151, in § 151<sup>1</sup>, in subsections 1 and 3 of § 152, in subsections 1 and 3 of § 153, in § 153<sup>1</sup>, in §§ 157, 165–170, 179<sup>1</sup>, 180, 224<sup>1</sup>, 225, 226 and 264<sup>1</sup>, in subsections 1 and 3 of § 266, in §§ 269, 271, 305, 334<sup>1</sup> and 334<sup>2</sup>, in subsections 1 and 3 of § 336 and in §§ 337, 338, 342, 372<sup>1</sup> and 426 of the Penal Code are conducted by the Police and Border Guard Board.

[RT I, 28.04.2022, 24 – entry into force 29.04.2022]

(2) Out-of-court proceedings concerning the misdemeanours defined in subsections 1 and 3 of § 157<sup>1</sup> of the Penal Code are conducted by the Data Protection Inspectorate.

(3) Out-of-court proceedings concerning the misdemeanours defined in subsections 1 and 2 of § 218, in § 275 and in subsection 1 of § 325 of the Penal Code are conducted by the Police and Border Guard Board, the Ministry of Justice and Digital Affairs and the prison.

[RT I, 30.12.2024, 1 – entry into force 01.01.2025, the words "Ministry of Justice" replaced with words "Ministry of Justice and Digital Affairs" on the basis of subsection 12 of § 105.19 of the Government of the Republic Act.]

(4) Out-of-court proceedings concerning the misdemeanours defined in § 225<sup>1</sup> of the Penal Code are conducted by the Consumer Protection and Technical Regulatory Authority.

[RT I, 12.12.2018, 1 – entry into force 01.01.2019]

(5) Out-of-court proceedings concerning the misdemeanours defined in subsections 1 and 3 of § 261 and in § 262 of the Penal Code are conducted by the Police and Border Guard Board and the executive of the rural municipality or city.

(6) Out-of-court proceedings concerning the misdemeanours defined in § 270 of the Penal Code are conducted by the Transport Administration.  
[RT I, 10.12.2020, 1 – entry into force 01.01.2021]

(7) Out-of-court proceedings concerning the misdemeanours defined in subsections 1 and 1<sup>1</sup> of § 277 of the Penal Code are conducted by the Police and Border Guard Board, the Estonian Internal Security Service, the Tax and Customs Board and the Rescue Board.

(8) Out-of-court proceedings concerning the misdemeanours defined in § 278 of the Penal Code are conducted by the Police and Border Guard Board and the Rescue Board.

(9) Out-of-court proceedings concerning the misdemeanours defined in § 279 of the Penal Code are conducted by the Police and Border Guard Board and the relevant law enforcement authority.

(10) Out-of-court proceedings concerning the misdemeanours defined in subsections 1 and 3 of § 280 of the Penal Code are conducted by the Police and Border Guard Board and the administrative authority authorised to receive the information.

(11) Out-of-court proceedings concerning the misdemeanours defined in § 282 of the Penal Code are conducted by the executive of the relevant rural or urban municipality.  
[RT I, 04.07.2017, 1 – entry into force 01.01.2018]

(12) Out-of-court proceedings concerning the misdemeanours defined in subsections 1 and 3 of § 339 of the Penal Code are conducted by the Police and Border Guard Board and the Consumer Protection and Technical Regulatory Authority.  
[RT I, 12.12.2018, 1 – entry into force 01.01.2019]

(13) Out-of-court proceedings concerning the misdemeanours defined in § 352 of the Penal Code are conducted by the Police and Border Guard Board, the Environmental Board and the Rescue Board.  
[RT I, 10.07.2020, 2 – entry into force 01.01.2021]

(14) Out-of-court proceedings concerning the misdemeanours defined in subsections 1 and 3 of § 353 of the Penal Code are conducted by the Environmental Board and, as regards traffic requirements, by the Police and Border Guard Board.  
[RT I, 10.07.2020, 2 – entry into force 01.01.2021]

(15) Out-of-court proceedings concerning the misdemeanours defined in §§ 362 and 366 of the Penal Code are conducted by the Environmental Board.  
[RT I, 10.07.2020, 2 – entry into force 01.01.2021]

(16) Out-of-court proceedings concerning the misdemeanours defined in subsections 1 and 3 of § 372 of the Penal Code are conducted by the Police and Border Guard Board and the relevant law enforcement authority.

(17) Out-of-court proceedings concerning the misdemeanours defined in § 398 and in subsections 1 and 3 of § 398<sup>1</sup> of the Penal Code are conducted by the Financial Supervision Authority.  
[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

#### **§ 52<sup>1</sup>. Subject matter jurisdiction for dealing with misdemeanours provided for by the Penal Code**

The misdemeanours defined in subsections 1 and 3 of § 151 of the Penal Code are dealt with by the district court.  
[RT I 2006, 31, 234 – entry into force 16.07.2006]

## **Chapter 10 OUT-OF-COURT PROCEEDINGS**

### **Subchapter 1 Cautioning Procedure**

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

## **Subchapter 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) Where this is provided for by law, an out-of-court proceedings authority may give the registered owner of a motor vehicle or, if an authorised user has been entered in the register, the authorised user (hereinafter ‘person responsible for the motor vehicle’) a cautionary penalty in relation to a traffic misdemeanour committed with the motor vehicle if:

1) the indication for misdemeanour proceedings consists in information transmitted by an automated traffic supervision device concerning a violation of traffic requirements, from which it is possible to visually identify the registration plate of the motor vehicle as well as the time and place at which the violation was ascertained; or [RT I, 22.12.2021, 1 – entry into force 01.03.2022]

2) the enforcing officer who discovered the offence was unable to immediately identify the driver of the motor vehicle and the violation was recorded on a photograph, on footage or on a recording made on other media from which the registration plate of the motor vehicle and the time and place of establishment of the violation are visually identifiable.

(2) The cautionary penalty is given to the person who was the registered owner or authorised user of the motor vehicle at the time of commission of the misdemeanour.

(3) A cautionary penalty given to an authorised user of a motor vehicle is not a sanction imposed for an offence, it is not entered in the Criminal Records Database and it may not be invoked for the purposes of considering a person to be reoffending or for the application of other legal consequences prescribed for offences.

(4) The maximum amount of the cautionary penalty is 420 euros. Penalty amounts for specific misdemeanours are provided by the Traffic Act. [RT I, 29.06.2024, 1 – entry into force 01.01.2025]

(5) Where the traffic misdemeanour is a minor one and the out-of-court proceedings authority finds that cautioning the person responsible for the motor vehicle without giving them a penalty is sufficient, the authority may decide not to give the person a cautionary penalty but to issue a written caution.

(6) Application of the written caution procedure in accordance with the rules provided by subsections 1 or 5 of this section terminates misdemeanour proceedings. The out-of-court proceedings authority resumes proceedings under the expedited or regular procedure on the grounds provided by subsections 3 or 6 of § 54<sup>6</sup> of this Code. [RT I 2008, 54, 304 – entry into force 27.12.2008]

### **§ 54<sup>2</sup>. Penalty notice**

(1) In a situation provided for by subsection 1 of § 54<sup>1</sup> of this Code, a penalty notice is sent to the person responsible for the motor vehicle, which states:

- 1) the time and place of the giving of the cautionary penalty;
- 2) the name, registry code and address of the out-of-court proceedings authority;
- 3) the given name, surname and position of the official of the out-of-court proceedings authority who issued the notice;
- 4) if the addressee of the notice is a natural person, their given name and surname, residential address and personal identification code or, if the person does not have such a code, their date of birth;
- 5) if the addressee of the notice is a legal person, their name and registry code or, where they are a foreign legal entity, the combination of numbers or letters equivalent to a registry code, and the address of their seat, their telephone number and email address;
- 6) a short summary of the misdemeanour, including the time and place of its commission;
- 7) the legal designation of the misdemeanour;
- 8) the basis for the imposition of the cautionary penalty;
- 9) the amount of the cautionary penalty.

(2) In addition to the information provided for by subsection 1 of this section, the penalty notice states:

- 1) an explanation stating that a cautionary penalty given to an authorised user of a motor vehicle is not a sanction for an offence, it will not be entered in the Criminal Records Database and it may not be invoked for the purposes of considering a person to be reoffending or for the application of other legal consequences prescribed for offences;

- 2) information stating that the cautionary penalty has to be paid within thirty days following receipt of the notice; after expiry of this term the penalty may be collected by means of compulsory enforcement;
- 3) information stating that the person responsible for the motor vehicle has a right to contest the notice within thirty days following its receipt, and an explanation of the rules governing contestation;
- 4) information stating that, on an application of the person responsible for the motor vehicle, a copy will be sent to that person of the photograph, footage or other recording by which the act was ascertained.

(3) A payment order stating the bank account number and a reference number is appended to the penalty notice.

(4) A penalty notice is signed by the official issuing it. The notice may be signed digitally.

(5) A penalty notice is done in two identical copies one of which is sent to the person responsible for the motor vehicle and the other kept by the out-of-court proceedings authority. Where a notice is signed digitally, the authority preserves an electronic copy of the notice as it was sent.

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

### **§ 54<sup>3</sup>. Service of a penalty notice**

(1) A penalty notice is sent – in accordance with subsection 3 of § 41 of this Code or by electronic means in accordance with subsection 4 of § 41 of this Code – to a natural person by a registered letter to their address as shown in the Population Register or to such a person's any other address that is known to the proceedings authority. Where receipt of a notice that was sent by electronic means is not acknowledged within 15 days following its sending, the notice is sent as a registered letter to be delivered under a notice of delivery.

[RT I, 22.12.2021, 1 – entry into force 01.01.2022]

(2) If the person responsible for the motor vehicle does not reside at the address entered in the register, their actual whereabouts are unknown and the penalty notice cannot be delivered in any other manner, the out-of-court proceedings authority may publish the notice in the official gazette *Ametlikud Teadaanded*.

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

(3) When a penalty notice is published in the official gazette *Ametlikud Teadaanded*, the given name and surname of the person responsible for the motor vehicle and their personal identification code or, where this is not possible, the date of birth instead of the personal identification code. The notice is deemed to have been served by public announcement when 30 days have passed from the day of its publication in the gazette or when the person acknowledges its receipt in the information system of the gazette .

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

(4) A penalty notice to a legal person, to a State or municipal authority or to a public legal person is sent by regular letter to their address as recorded in the relevant register or by electronic means in accordance with subsection 4 of § 41 of this Code. Where a notice is sent by electronic means, protection of the notice against third parties and acknowledgement of its receipt is not required. A document sent to a legal person, to a State or municipal authority or to a public legal person to their address as recorded in the relevant register or to their email address as published in such a register is deemed to have been served when thirty days have elapsed from its sending.

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

(5) The penalty notice is dispatched within ten working days from the day of ascertaining the misdemeanour.

[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

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

(1) A cautionary penalty has to be paid within thirty days following receipt of the penalty notice. The penalty is deemed to have been paid on time if it is credited to the bank account specified in the notice by the due date for payment.

(2) If the person responsible for the motor vehicle has not contested the penalty notice but at the same time has failed to pay the penalty by its due date, the out-of-court proceedings authority transmits that notice to an enforcement agent for immediate compulsory enforcement on the grounds and in accordance with the rules provided by the Code of Enforcement Procedure.

(3) If the person responsible for the motor vehicle has paid the cautionary penalty or if the penalty is being enforced, no one may be subjected to a sanction for the same act as a misdemeanour.

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

## **§ 54<sup>5</sup>. Contesting a penalty notice**

(1) If the person responsible for the motor vehicle does not agree with the cautionary penalty that they have been given, they have a right to contest the notice within thirty days following its receipt. If the penalty has been contested, it does not enter into effect.

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

(2) A challenge against a penalty notice is filed in writing with the out-of-court proceedings authority who issued the notice and states:

- 1) the name of the out-of-court proceedings authority which issued the notice and with which the challenge is filed;
- 2) if the challenge is filed by a natural person, their given name, surname, residential address, telephone number and email address;
- 3) if the challenge is filed by a legal person, their name and registry code or, where they are a foreign legal entity, the numerical or letter combination equivalent to a registry code, and the address of their seat, their telephone number and email address;
- 4) if the person filing the challenge has a representative, their given name and surname, the address of their seat, and their telephone number and email address;
- 5) the name and address of the out-of-court proceedings authority which gave the cautionary penalty;
- 6) the number and date of the notice;
- 7) the substance of and reasons for the relief sought by the person who filed the challenge.

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

(2<sup>1</sup>) The challenge is signed by the person filing it.

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

(3) Where the person responsible for the motor vehicle is a natural person, they must, if they are contesting the penalty notice on the grounds that the motor vehicle was used by another person, indicate in the challenge the given name, surname, residential address, the number of the driving licence, and the date of birth or personal identification code of the person who was using the motor vehicle at the time stated in the notice.

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

(4) The person responsible for the motor vehicle is exempted from the obligation provided by subsection 3 of this section if they present an official confirmation showing that, prior to the time of commission of the act described in the penalty notice, a competent authority was informed of the theft, loss or destruction of the motor vehicle or of its registration plate, or if they offer evidence concerning the presence of circumstances which rule out unlawfulness.

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

(5) A legal person, the State, a municipality or a public legal person states in their challenge the given name and surname, residential address, the number of the driving licence and the date of birth or personal identification code of the natural person who was using the motor vehicle at the time stated in the penalty notice.

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

(6) A legal person, the State, a municipality or a public legal person is exempted from the obligation provided by subsection 5 of this section if they present an official confirmation showing that, prior to the time of commission of the act described in the penalty notice, a competent authority was informed of the theft, loss or destruction of the motor vehicle or of its registration plate, or if they offer evidence concerning the presence of circumstances which rule out unlawfulness.

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

## **§ 54<sup>6</sup>. Disposal of the challenge by the out-of-court proceedings authority**

(1) If the challenge of the person responsible for the motor vehicle does not conform to the requirements of subsection 2 of § 54<sup>5</sup> of this Code, the out-of-court proceedings authority makes an order by which it provisionally refuses to consider the challenge and sets a time limit for the person who filed it to cure its defects. If the residential address of the person responsible for the motor vehicle is not indicated in the challenge, the out-of-court proceedings authority dismisses that challenge.

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

(2) The out-of-court proceedings authority dismisses the challenge and returns it by making the corresponding order if:

- 1) the challenge is filed after expiry of the time limit provided by subsection 1 of § 54<sup>5</sup> of this Code and no application has been made for reinstatement of that time limit, or if the authority has decided not to reinstate the time limit;
- 2) the challenge is filed by a person who under subsection 1 of § 54<sup>5</sup> of this Code does not have a right to file one;
- 3) the person who filed the challenge has not cured the defects found in that challenge within the time limit set under the rule provided by subsection 1 of this section;
- 4) the challenge is based on the circumstances described in subsections 4 or 6 of § 54<sup>5</sup> 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 the motor vehicle offers the evidence referred to in subsection 4 or 6 of § 54<sup>5</sup> together with the challenge, the out-of-court proceedings authority may decide not to resume misdemeanour proceedings and enter an order by which it cancels the penalty notice and decides not to resume misdemeanour proceedings.

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

(4) If the person responsible for the motor vehicle indicates in the challenge the given name and surname, residential address, the number of the driving licence and date of birth or personal identification code of the natural person who used the motor vehicle at the time stated in the penalty notice, the out-of-court proceedings authority sends the notice to that natural person.

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

(5) The service of a penalty notice takes place in accordance with § 54<sup>3</sup> of this Code and its contestation in accordance with subsections 1 and 2 of § 54<sup>5</sup> of this Code.

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

(6) If the individual identified by the person responsible for the motor vehicle contests the penalty notice, the out-of-court proceedings authority resumes misdemeanour proceedings by an order or by a procedural operation under the expedited or regular procedure. When imposing a sanction or sentence in resumed proceedings, the amount of the cautionary penalty stated in the notice is not binding on the proceedings authority.

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

(7) The out-of-court proceedings authority sends a copy of the orders mentioned in subsections 1, 2 or 3 of this section to the residential address of the individual identified in the challenge by the person responsible for the motor vehicle by regular letter or to the email address indicated in the challenge.

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

#### **§ 54<sup>7</sup>. Special rules concerning proceedings in respect of a traffic misdemeanour committed by means of a motor vehicle registered in other Member States of the European Union**

(1) Where a traffic misdemeanour is committed by means of 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 proceedings are conducted without prejudice to the special rules provided by this section.

(2) In order to draw up and serve a penalty notice, the out-of-court proceedings authority addresses an enquiry to the competent authority that is mentioned in subsection 1 of § 200<sup>3</sup> of the Traffic Act and that is authorised to exchange national registration data of vehicles of the Member State of the European Union for obtaining the particulars of the person responsible for the motor vehicle and of the motor vehicle.

(3) The competent authority transmits the following information to the out-of-court proceedings authority:

- 1) the given name, surname, personal identification code or, if the person does not have such a code, the date of birth, and the residential address of the natural person who is the registered owner of the motor vehicle or who appears in the register as the authorised user of that vehicle;
- 2) the name and the address of the seat of the legal person who is the registered owner of the motor vehicle or who appears in the register as the authorised user of that vehicle;
- 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 out-of-court proceedings authority has received from a competent authority the particulars listed in subsection 3 of this section concerning the person responsible for the motor vehicle, that proceedings authority draws up the penalty notice and appends to the notice a translation into one of the official languages of the Member State concerned, or draws up the penalty notice in one of the official languages of that Member State. If a copy of the photograph by which the act was ascertained is appended to the notice, the information referred to in clause 4 of subsection 2 of § 54<sup>2</sup> of this Code is not included in it. Of the information referred to in clause 5 of subsection 1 of § 54<sup>2</sup> of this Code, the notice states the name of the legal person and the address of its seat.

(5) The penalty notice is sent within five working days following receipt of the particulars from the competent authority by regular letter to the residential address or to the address of the seat of the person responsible for the motor vehicle. The penalty notice is deemed to have been served when 30 days have elapsed following its sending.

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

(7) Where the residence of the person mentioned in subsection 6 of § 54<sup>6</sup> of this Code is not in Estonia and the person contests the penalty notice, the out-of-court proceedings authority makes a decision not to resume misdemeanour proceedings, enters an order by which it cancels the notice and sends information concerning this to the person who contested the notice and who is responsible for the motor vehicle.

(8) If the residence of the addressee of a penalty notice is not in Estonia, subsection 2 of § 54<sup>4</sup> of this Code does not apply.

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

## **Subchapter 1<sup>2</sup>** **Abridged Procedure**

[RT I, 31.05.2018, 1 - entry into force 01.01.2019]

### **§ 54<sup>8</sup>. Application of the abridged procedure**

(1) Where this is provided for by law, the out-of-court proceedings authority, having commenced misdemeanour proceedings, applies the abridged procedure and gives a fixed penalty to the person who committed the act that has the elements of a misdemeanour. The application of the abridged procedure is not mandatory if:

- 1) circumstances are present which do not permit the procedure to be completed on the scene;
- 2) the person subjected to the procedure intends to contest having committed the act that has the elements of a misdemeanour.

(2) The abridged procedure is not applied if:

- 1) written caution proceedings are commenced with regard to the same act;
- 2) the act that presents the elements of a misdemeanour and that constitutes the grounds for the application of the abridged procedure includes the necessary elements of several misdemeanours and regular or expedited proceedings are commenced with regard to at least one of them;
- 3) with respect to the misdemeanour, the relevant statute prescribes, as the principal sanction, the withdrawal of certain special rights or a short-term custodial sentence, or also prescribes certain ancillary sanctions.

(3) Where the abridged procedure is applied in the case of a person who is at least fourteen but less than eighteen years of age, this is notified to their statutory representative without delay.

(4) The maximum amount of a fixed penalty is 160 euros. The amount of the penalty for a misdemeanour is enacted by a law. Where the penalty is imposed on a person who is at least fourteen but less than eighteen years of age, the amount provided by law is divided by two.

[RT I, 29.06.2024, 1 – entry into force 01.01.2025]

(5) When giving a fixed penalty to a person subjected to the abridged procedure, the provisions of subsections 1 and 3 of § 63 of the Penal Code are taken into consideration.

(6) A fixed penalty imposed under the abridged procedure is not a sanction for an offence, it is not recorded in the Criminal Records Database and it may not be invoked for the purposes of considering a person to be reoffending or for the application of other legal consequences prescribed for offences.

(6<sup>1</sup>) The proceedings authority may exempt a person who committed an act that presents the elements of a misdemeanour from paying the fixed penalty that they have been given, provided the person agrees to abide by the terms of an alternative measure provided for by statute. If the person discontinues the measure or disregards its terms, they pay the penalty as provided for by this Chapter.

[RT I, 28.05.2021, 11 – entry into force 07.06.2021]

(7) When applying the abridged procedure, the out-of-court proceedings authority:

- 1) explains to the person subjected to that procedure the rights mentioned in subsection 8 of this section;
- 2) explains to that person the misdemeanour what misdemeanour the proceedings against them are for and, according to subsection 2 of § 54<sup>9</sup> of this Code, the special rules that apply when the abridged procedure is used;
- 3) makes a decision mentioned in § 54<sup>9</sup> of this Code that concludes the abridged procedure.

(8) A person subjected to the abridged procedure has a right to:

- 1) know what misdemeanour the proceedings against them are for;
- 2) acquaint themselves with any recordings made in the course of the relevant law enforcement operations;
- 3) give explanations concerning the circumstances of the misdemeanour;

4) contest the decision that concludes the abridged procedure – in accordance with the rules provided by this Code;

5) apply for leave to pay the fixed penalty in instalments.  
[RT I, 29.06.2024, 1 – entry into force 01.01.2025]

(9) When applying the abridged procedure, the out-of-court proceedings authority may decide not to render an item of evidence in the required form and, instead, in the decision that concludes the abridged procedure, only refer to the source of the evidence.

[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

### **§ 54<sup>9</sup>. Decision that concludes the abridged procedure**

(1) The out-of-court proceedings authority makes a decision that concludes the abridged procedure, reflects the giving of a fixed penalty to the person subjected to that procedure and states:

- 1) the date and place of making the decision;
- 2) the name and address of the authority;
- 3) the given name, surname and position of the authority's official who made the decision;
- 4) the given name and surname, personal identification code and residential address of the person subjected to the procedure or, if the person is an alien or does not have a personal identification code, their date and place of birth, citizenship and residential address;
- 5) information stating that an explanation has been provided to the person subjected to the procedure regarding their rights that are provided by subsection 8 of § 54<sup>8</sup> of this Code;
- 6) the place and time of commission of the misdemeanour;
- 7) the legal designation of the misdemeanour: the name, section, subsection and clause of the relevant statute – and, where required, the description of any alternative misdemeanour, a short summary of the misdemeanour or the legal rule that was infringed;
- 8) the evidence or sources of evidence to prove the commission of the misdemeanour;
- 9) the basis for giving the person a fixed penalty or, where needed, an alternative measure provided for by statute;

[RT I, 28.05.2021, 11 – entry into force 07.06.2021]

10) the amount of the fixed penalty or, where needed, the terms of the alternative measure provided for by statute;

[RT I, 28.05.2021, 11 – entry into force 07.06.2021]

11) for valid reasons, leave to pay the fixed penalty in instalments, keeping in mind that the period within which a penalty payable in instalments is to be carried out must not exceed one year.

[RT I, 29.06.2024, 1 – entry into force 01.01.2025]

(2) In addition to the information provided for by subsection 1 of this section, the decision that concludes the abridged procedure states:

1) an explanation that a fixed penalty given under the abridged procedure is not a sanction for an offence, it is not recorded in the Criminal Records Database and it may not be invoked for the purposes of considering the person to be reoffending or for the application of other legal consequences prescribed for offences;

2) where leave was not granted to pay the fixed penalty in instalments, information stating that the fixed penalty must be paid within 45 days following receipt of the decision that concludes the abridged procedure and that, after expiry of this time limit, the penalty becomes enforceable according to the rules of compulsory enforcement;

[RT I, 29.06.2024, 1 – entry into force 01.01.2025]

3) the details of the bank account to which the amount of the fixed penalty has to be transferred: the name of the bank, the holder of the account, the reference number and the number of the account;

4) information stating that the person subjected to the abridged procedure, or their representative, has a right to contest the decision within 15 days following its receipt by filing a corresponding challenge with the out-of-court proceedings authority, as well as information to the effect that, if a challenge is filed, the decision does not enter into effect but that, instead, misdemeanour proceedings will be resumed under the expedited or regular procedure, as well as information that, on resumption of proceedings, the out-of-court proceedings authority will not be bound by either the legal designation of the misdemeanour or the amount of the fixed penalty stated in the decision;

5) information concerning the fact that transmission, with the consent of the person subjected to the abridged procedure person and by electronic means, of the decision to the person does not change the time limits provided by clauses 2 and 4 of this subsection.

(2<sup>1</sup>) When a person is given an alternative measure provided for by statute, in addition to what has been provided for by subsections 1 and 2 of this section, the decision that concludes the abridged procedure states:

1) information stating that the person subjected to the abridged procedure will be exempted from paying the fixed penalty if they comply with the terms of the alternative measure described in the decision;

2) information stating that, should the person abandon the alternative measure or disregard its terms, they must pay the fixed penalty within 45 days following the abandoning of the measure or the disregarding of its terms

and that, after this time limit expires, the penalty becomes enforceable according to the rules of compulsory enforcement;

[RT I, 29.06.2024, 1 – entry into force 01.01.2025]

3) information stating that if the person who was exempted from paying the fixed penalty has abided by the terms of the alternative measure described in the decision concluding the abridged procedure, they or their representative have a right, within 15 days following receipt of the decision, to require the out-of-court proceedings authority to formalize the evidence and transmit it to the applicant, and to contest that decision by filing an appeal with the district court.

[RT I, 28.05.2021, 11 – entry into force 07.06.2021]

(3) When the decision that concludes the abridged procedure is handed to the person subjected to the procedure, it is explained to them that the time limit for challenging the decision starts to run from the date on which the decision was handed to them.

(4) The decision that concludes the abridged procedure is signed by the official of the out-of-court proceedings authority who made the decision.

(5) The decision that concludes the abridged procedure is drawn up in two identical copies the first of which is given to the person subjected to the procedure immediately after the signing of the decision against an acknowledgement of receipt signed on the second copy of the decision. With the consent of the person subjected to the procedure, a copy of the decision is sent to the person's email address. The sending of a copy of the decision does not change the time limits provided by §§ 54<sup>10</sup> and 54<sup>11</sup> of this Code.

(6) Where a person subjected to the abridged procedure refuses to sign an acknowledgement of receipt of the decision that concludes the abridged procedure, the official of the out-of-court proceedings authority notes this on the decision in question, also affixing their signature and indicating their position title. In such a case, it is deemed that the person has received the decision on the day that they refused to accept it.

(7) With the consent of the person subjected to the abridged procedure, the out-of-court proceedings authority may decide not to draw up and sign a decision that concludes the abridged procedure in accordance with the rules provided by subsections 4 and 5 of this section, instead drawing up and transmitting such a decision to the person in an electronic form only. The person certifies their consent to the making and transmission of the decision in an electronic form by a corresponding electronic note. The official of the out-of-court proceedings authority who made the decision attaches their own electronic note to the person's note. The decision is transmitted to the person without delay.

(8) Where the decision that concludes the abridged procedure is made in accordance with the rules provided by subsection 7 of this section, the person subjected to the procedure is deemed to have received the decision if they have made an electronic note on that decision.

(9) The making of the decision that concludes the abridged procedure terminates misdemeanour proceedings in the case. Misdemeanour proceedings are resumed by the out-of-court proceedings authority in accordance with the provisions of subsection 1 of § 54<sup>12</sup> of this Code.

[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

#### **§ 54<sup>10</sup>. Payment of a fixed penalty; mandating the enforcement of a fixed penalty**

(1) A fixed penalty is paid to the current account stated in the decision concluding the abridged procedure within 45 days following receipt of the decision. The penalty is deemed to have been paid on time if it is credited to that account by the due date.

[RT I, 29.06.2024, 1 – entry into force 01.01.2025]

(1<sup>1</sup>) A person subjected to the abridged procedure is exempted from paying the fixed penalty if they have abided by the terms of the alternative measure described in the decision concluding the abridged procedure.

[RT I, 28.05.2021, 11 – entry into force 07.06.2021]

(1<sup>2</sup>) Where a person subjected to the abridged procedure abandons the alternative measure described in the decision concluding the abridged procedure or disregards the terms of the measure, they pay the fixed penalty to the current account stated in the decision within 45 days following the abandoning of the measure described in the decision or the disregarding of the terms of the measure.

[RT I, 29.06.2024, 1 – entry into force 01.01.2025]

(1<sup>3</sup>) Where the out-of-court proceedings authority ascertains that a person subjected to the abridged procedure has not abided by the terms of the alternative measure described in the decision concluding the abridged procedure, the authority transmits a corresponding notice to the person without delay.

[RT I, 28.05.2021, 11 – entry into force 07.06.2021]

(2) Where a person subjected to the abridged procedure has not contested the decision that concludes the procedure but has failed to pay the fixed penalty by the due date, the out-of-court proceedings authority transmits the decision, once it has entered into effect, within ten days to an enforcement agent for compulsory enforcement.

(1<sup>1</sup>) A decision that has been made by the Tax and Customs Board as a result of the abridged procedure:  
1) is deemed to have been complied with and its enforcement is not mandated if the Board has set off the fixed penalty in full – in accordance with the rules provided by the Taxation Act – before expiry of the period for enforcement;

2) is enforced according to the rules provided by the Taxation Act.  
[RT I, 22.12.2021, 1 – entry into force 01.03.2022]

(3) Where the decision that concludes the abridged procedure has entered into effect, the person subjected to the procedure must not be subjected to a sanction for the same act as a misdemeanour.  
[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

### **§ 54<sup>11</sup>. Contesting a decision that concludes the abridged procedure**

(1) If a person subjected to the abridged procedure does not agree with the decision that concludes the procedure, they have a right to contest that decision within 15 days following its receipt. To contest the decision, the person must file a challenge with the out-of-court proceedings authority that made the decision. If a challenge is filed, the decision does not enter into effect.

(1<sup>1</sup>) If the person subjected to the abridged procedure has abided by the terms of the alternative measure described in the decision concluding that procedure but they do not agree with the decision, the person or their representative has a right, within 15 days following receipt of the decision, to require the out-of-court proceedings authority to formalize the evidence and transmit it to the applicant, and to contest that decision by filing an appeal with the district court within 15 days following reception of the evidence from the out-of-court proceedings authority.

[RT I, 28.05.2021, 11 – entry into force 07.06.2021]

(2) The challenge is filed in writing and states:

1) the name and address of the out-of-court proceedings authority that made the decision that concluded the abridged procedure;

2) the given name and surname, residential address, telephone number and email address of the person subjected to the abridged procedure;

3) if the person subjected to the abridged procedure has a representative, the given name and surname, address of the registered office, telephone number, email address and power of attorney of the representative;

4) the number and date of the decision that concludes the abridged procedure and the fact that the person subjected to the procedure does not agree with the decision.

(3) The challenge is signed by the person filing it.  
[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

### **§ 54<sup>12</sup>. Disposal of a challenge by the out-of-court proceedings authority**

(1) If a person subjected to the abridged procedure has contested the decision that concludes the procedure, the out-of-court proceedings authority resumes misdemeanour proceedings under the expedited or regular procedure by making a corresponding order or by performing a corresponding procedural operation. If any of the circumstances provided for by subsection 1 of § 29 of this Code are present, the authority may decide not to resume misdemeanour proceedings and enter an order by which it revokes the decision that concludes the abridged procedure and decides not to resume misdemeanour proceedings.

(2) If the challenge of the person subjected to the abridged procedure does not conform to the requirements provided by subsection 2 of § 54<sup>11</sup> of this Code, the out-of-court proceedings authority makes an order by which it provisionally refuses to consider the challenge and sets a time limit for the challenger to cure its defects.

(3) The out-of-court proceedings authority dismisses the challenge and returns it by an order, if:

1) the challenge is filed after expiry of the time limit provided by subsection 1 of § 54<sup>11</sup> of this Code and no application has been made for reinstatement of that time limit or the authority has decided not to reinstate the time limit;

2) the person who was subjected to the abridged procedure and who filed the challenge has not cured the defects found in that challenge within the time limit set under the rule provided by subsection 2 of this section;

3) the challenge has been filed by a person who, under subsection 1 of § 54<sup>11</sup> of this Code, does not have a right to file one.

(4) The out-of-court proceedings authority sends a copy of the order mentioned in subsection 1, subsection 2 or subsection 3 of this section to the residential address of the person identified in the challenge by a regular letter or to the email address stated in the decision that concludes the abridged procedure or in the challenge.

(5) In resumed proceedings, the out-of-court proceedings authority is not bound either by the legal designation of the misdemeanour or by the amount of the fixed penalty stated in the decision that concludes the abridged procedure.

(6) An official of the out-of-court proceedings authority who made the decision that concludes the abridged procedure must not participate in resumed proceedings as the official to conduct out-of-court proceedings in the case. Such an official, who has directly perceived the circumstances relating to the commission of the misdemeanour and has made the decision that concludes the abridged procedure, may participate in resumed proceedings as a witness concerning the circumstances perceived by them.

[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

## **Subchapter 2 Expedited Procedure**

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

(1) The out-of-court proceedings authority may apply the expedited procedure if the facts relating to the commission of the misdemeanour are clear and:

- 1) the person subject to proceedings has been notified of their rights and obligations that are provided by § 19 of this Code;
- 2) it has been explained to that person that no misdemeanour investigation report will be drawn up under the procedure;
- 3) the person has been provided with an opportunity to give a statement concerning commission of the misdemeanour, and the person consents to the procedure.

(2) In a decision that concludes the 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) The expedited procedure is not applied and regular proceedings are commenced if:

- 1) the person subject to proceedings does not consent to the expedited procedure or if they are 14 to 18 years of age or suffer from a mental disorder;
- 2) it appears that the imposition of confiscation, of a short-term custodial sentence or of withdrawal of a right to drive a vehicle is required as the principal sanction, or that the imposition of an ancillary sanction is required.  
[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

(4) Under the expedited procedure, the out-of-court proceedings authority collects evidence according to the provisions of Chapter 5 of this Code.

(5) When making a decision that concludes the expedited procedure, the out-of-court proceedings authority must dispose of the issues listed in § 108 of this Code.

### **§ 56. Provision of a statement concerning commission of the misdemeanour**

(1) The statement of a natural person subject to proceedings or of the statutory representative of a legal person subject to proceedings concerning commission of the misdemeanour is audio and video recorded or noted on the form of the decision that concludes the expedited procedure or as a separate document. In the case of noting the statement, the person subject to proceedings may write their statement concerning commission of the misdemeanour in their own hand.

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

(2) When a person subject to proceedings is interviewed, the following are recorded:

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

- 1) the date and place of giving the statement;
- 2) the name of the out-of-court proceedings authority to whom the statement was given;
- 3) if the person subject to proceedings is a natural person, their given name, surname and personal identification code or, in the case of an alien or a person who does not possess a such a code, their place and date of birth, the name and number of their identity document, nationality, residential address, place of employment, telephone number and email address;
- 4) if the person subject to proceedings is a legal person, their name and registry code or, where they are a foreign legal entity, the numerical or letter combination equivalent to a registry code, and the address of their seat, their telephone number and email address;
- 5) the given name and surname of the statutory representative of the legal person subject to proceedings, the address of their residence or seat, their place of employment, telephone number and email address;
- 6) the provision of notification to the person subject to proceedings concerning their rights and obligations according to § 19 of this Code and of the special rules that apply under expedited procedure according to clauses 2 and 3 of subsection 1 of § 55 of this Code, which the person acknowledges by a separate signature on the

interview report or – if their statement is audio and video recorded – regarding which they provide a specific oral acknowledgement;

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

- 7) the statement of the person subject to proceedings concerning commission of the misdemeanour;
- 8) the person's consent or refusal of consent to the expedited procedure, of which they acknowledge their consent by a separate signature in the interview report or – if their statement is audio and video recorded – regarding which they provide a specific oral acknowledgement.

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

(2<sup>1</sup>) If the person's statement is noted in the decision that concludes the expedited procedure, the information provided for by clauses 6 and 8 of subsection 2 of this section is stated and the person signs the corresponding acknowledgement in the decision.

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

(3) The interview report is signed or – if the statement is audio and video recorded – an oral acknowledgement is made by the natural person subject to proceedings or by the statutory representative of the legal person subject to proceedings.

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

(4) If the person referred to in subsection 3 of this section refuses to give a statement, to sign their acknowledgement or to provide an oral acknowledgement, they are deemed to have refused consent to the expedited procedure. The refusal is noted in the interview report or on the form of the decision that concludes the expedited procedure or is audio and video recorded, and regular proceedings are commenced.

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

#### **§ 57. Particulars in the decision that concludes the expedited procedure**

(1) The decision that concludes the expedited procedure states:

- 1) the date and place of making the decision;
- 2) the name, registry code and address of the out-of-court proceedings authority;
- 3) the given name, surname and position of the official of the out-of-court proceedings authority who made the decision;
- 4) the personal particulars of the person subject to proceedings according to clause 4 or 5 of § 109 of this Code;
- 5) information to show whether the person subject to proceedings has been notified of their rights and whether they consent to the expedited procedure;
- 6) the place and time of commission of the misdemeanour;
- 7) a short summary of the misdemeanour;

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

- 8) the evidence that proves commission of the misdemeanour;

8<sup>1</sup>) the statement 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 designation of the misdemeanour: the title, section, subsection and clause of the relevant statute;
- 10) any mitigating and aggravating circumstances;
- 11) the amount of the fine imposed on the person subject to proceedings or, where subsection 1 of § 63 of the Penal Code is applied, the amount of the fine under the rule which prescribes the most severe sanction or, where subsection 3 of § 63 of the Penal Code is applied, the amount of the fine for each misdemeanour separately;
- 12) payment of the fine in instalments in accordance with the provisions of subsections 2 and 3 of § 66 of the Penal Code;

13) how items used as physical evidence, or attached or seized, are to be dealt with;

[RT I, 11.03.2023, 1 – entry into force 01.11.2023] 14) a ruling concerning case costs;

15) information stating that the person subject to proceedings and that person's defence counsel have a right to file, with the district court, an appeal against the decision within 15 days following its receipt;

16) if the fine has not been ordered to be paid in parts, information stating that the fine must be paid into the bank within 45 days following receipt of the decision, stating the name and code of the bank, the name of the holder and number of the bank account into which the fine must be paid;

[RT I, 11.03.2023, 1 – entry into force 01.11.2023] 16<sup>1</sup>) information stating that a fine imposed for a violation of the border regime or for unlawful crossing of the state border or of a temporary border line of the Republic of Estonia may be paid in cash to the out-of-court proceedings authority;

16<sup>1</sup>) information stating that a fine imposed for a violation of the border regime or for unlawful crossing of the state border or of a temporary border line of the Republic of Estonia may be paid in cash to the out-of-court proceedings authority;

17) information stating that enforcement of the decision will be mandated if the person has not paid the fine in full by the due date or has not, within the time limit, filed an appeal against the decision with the district court.

[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

(2) The decision is signed by an official of the out-of-court proceedings authority.

(3) A decision that concludes the expedited procedure is drawn up in two identical copies one of which is given to the person subject to proceedings immediately after the signing of the decision against an acknowledgement of receipt signed on the second copy of the decision. The person subject to proceedings notes the date of receipt of the decision on the second copy of that decision.  
[RT I 2005, 39, 308 – entry into force 01.01.2006]

## **Subchapter 3 Regular Procedure**

### **Division 1 General Requirements**

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

- (1) Misdemeanour proceedings are commenced by the first procedural operation in the case.
- (2) When the first procedural operation is performed, the person subject to proceedings is notified of their rights and obligations according to § 19 of this Code.
- (3) Where a person has violated the requirements of a statute and where suspension of an entitlement is prescribed for such a violation – on commencement of misdemeanour proceedings the document certifying the entitlement is seized, without delay, from the person subject to proceedings and added to the materials of the misdemeanour case.

#### **§ 59. Dealing with a misdemeanour report**

- (1) ‘Misdemeanour report’ means a report that describes events, facts or conduct in which the elements of a misdemeanour may be present.
- (2) When a misdemeanour report has been made concerning the commission of a misdemeanour, the out-of-court proceedings authority is required, within 15 days following its receipt, to commence misdemeanour proceedings or to decide not to commence such proceedings and to notify the person who made the misdemeanour report of its decision not to commence proceedings.
- (3) A notice of the decision not to commence misdemeanour proceedings may omit to state its substantiation if the decision is based on the grounds provided by § 29 of this Code and the misdemeanour report does not cite any harm caused by the misdemeanour to the person who made the report.
- (4) When the person who made the misdemeanour report receives notice of a decision not to commence misdemeanour proceedings, they may file a challenge with the head of the out-of-court proceedings authority against such a decision in accordance with the rules provided by § 76 of this Code.  
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

#### **§ 60. Summons to appear at the out-of-court proceedings authority**

- (1) The person subject to proceedings and any witnesses in the case are summoned to the out-of-court proceedings authority by a summons in accordance with the rules provided by §§ 40 and 41 of this Code.
- (2) The summons states that appearance is mandatory and that, under subsection 3 of § 43 of this Code, a person who has been summoned but does not appear without a valid reason may be brought in forcibly.

#### **§ 61. Referral of materials of the misdemeanour case to a prosecutor if elements of a criminal offence become apparent in the act**

- (1) If, in the course of misdemeanour proceedings, an official of the out-of-court proceedings authority concludes that the act contains the elements of a criminal offence, the materials concerning the misdemeanour case are sent without delay to a prosecutor, to decide on the commencement of criminal proceedings. If the out-of-court proceedings authority is authorised to conduct pre-trial investigations, criminal proceedings are commenced without the materials being sent to a prosecutor. The ruling to commence criminal proceedings may be made until the making of the decision by which a sanction is imposed on the offender for the misdemeanour.
- (2) If the prosecutor, having acquainted themselves with the materials of a misdemeanour case, decides not to commence criminal proceedings or terminates criminal proceedings in the case, yet there is reason to believe that the act contains the elements of a misdemeanour, they return those materials without delay to the out-of-court proceedings authority for resumption of misdemeanour proceedings.  
[RT I 2003, 26, 156 – entry into force 21.03.2003]



## **§ 62. Disclosure of information concerning out-of-court proceedings**

(1) To protect the interests of misdemeanour proceedings, of the public or of the data subject, information concerning out-of-court proceedings may be disclosed before the making of the decision in the case only if this does not cause disproportionate harm to those proceedings, to the interests of the State, to business secrets or, in particular where personal data of a special category are concerned, to the rights of the data subjects or third parties.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(2) When a decision has been made in out-of-court proceedings, its disclosure is permitted on the terms prescribed by subsections 2 and 3 of § 408<sup>1</sup> of the Code of Criminal Procedure, without prejudice to any rules special to out-of-court procedure.

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

(3) Any person who directly suffered pecuniary harm due to the misdemeanour, as well as their representative, has a right, after a disposition has been rendered in the case, as well as after the disposition has entered into effect, to acquaint themselves with the entire case file. Such a right does not extend to personal data of a special category that are contained in the file in respect of other persons.

[RT I, 20.04.2021, 1 – entry into force 30.04.2021]

(4) Where an application is made, the proceedings authority issues a complete copy of a procedural document or of the case file to the person who has a right to acquaint themselves with such a document or with the case file. A statutory fee in the amount provided for by subsection 1 of § 61 of the Statutory Fees Act is paid for the copy.

[RT I, 20.04.2021, 1 – entry into force 30.04.2021]

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

(1) If a person has committed several misdemeanours or if several persons have committed the same misdemeanour or misdemeanours, the misdemeanour cases in question may be joined.

(2) A misdemeanour case may be severed if severance does not prejudice the thoroughness and objectivity of misdemeanour proceedings.

(3) Misdemeanour cases are joined or severed by order of the out-of-court proceedings authority or of the district court. A copy of the order by which misdemeanour cases are severed is included in the files of the severed cases.

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

# **Division 2 Collection of Evidence**

## **§ 64. Collection of evidence**

An out-of-court proceedings authority collects evidence based on the provisions of Chapter 5 of this Code.

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

(1) The statement of a natural person subject to proceedings or of the statutory representative of a legal person subject to proceedings concerning commission of the misdemeanour is noted on the form of the interview report, or in the misdemeanour investigation report in accordance with clause 3 of subsection 2 of § 69 of this Code. The person subject to proceedings may write their statement also in their own hand.

(2) The interview report states:

- 1) the particulars provided for by clauses 1–5 of subsection 2 of § 56 of this Code;
- 2) the notification of the person subject to proceedings of their rights and obligations according to § 19 of this Code, which the person subject to proceedings acknowledges by a separate signature on the interview report;
- 3) the statement of the person subject to proceedings concerning commission of the misdemeanour.

(3) The interview report is signed by the natural person subject to proceedings or by the statutory representative of the legal person subject to proceedings.

(4) If the person mentioned in subsection 3 of this section refuses to give a statement or gives a statement but refuses to sign it, the official of the out-of-court proceedings authority makes a note concerning the refusal in the interview report.

## **Division 3**

# **Confiscation Orders in the Course of Misdemeanour Proceedings**

### **§ 66. Application by the out-of-court proceedings authority for a confiscation order**

If the object or material that constitutes an element of the misdemeanour has been seized in the misdemeanour case and attempts to identify its lawful possessor have been unsuccessful, the out-of-court proceedings authority – if it is not authorised to make confiscation orders – makes a substantiated application to the district court for a confiscation order in respect of the object or material. The application is sent to the court together with the misdemeanour file.

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

### **§ 67. Making a confiscation order in the course of misdemeanour proceedings**

(1) The district court disposes of the application for a confiscation order provided for by § 66 of this Code by making an order under written procedure without summoning the parties to proceedings.

(2) For disposing of the application, the district court may require the out-of-court proceedings authority to produce additional materials.

(3) The party to proceedings as well as any non-party whose legitimate interests the order provided for by subsection 1 of this section interferes with have a right to receive a copy of the order and to file an interim appeal against the order in accordance with the rules provided by Chapter 16 of this Code.

(4) If the out-of-court proceedings authority is authorised to make confiscation orders – where an object or material that constitutes an element of the misdemeanour has been seized in the misdemeanour case and attempts to identify its lawful possessor have not been successful – the authority may itself, in the course of the proceedings, enter an order confiscating the object or material.

(5) The party to proceedings as well as any non-party whose legitimate interests the order provided for by subsection 4 of this section interferes with have a right to receive a copy of the order and to file a challenge in accordance with the rules provided by § 76 of this Code.

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

## **Division 4**

# **Misdemeanour Investigation Report**

### **§ 68. Creating the misdemeanour investigation report**

(1) Under regular procedure, a misdemeanour investigation report is created concerning the misdemeanour.

(2) In a situation where, when compiling the misdemeanour investigation report, evidentiary information has to be supplemented or the legal designation of the misdemeanour has to be amended, the report is modified accordingly.

(3) Where the person has committed several misdemeanours, a single report or, if necessary, several reports, may be created.

(4) Where several persons have committed a joint misdemeanour, a single report is created.

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

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

(1) The introduction of a misdemeanour investigation report states:

- 1) the date and place of filing the report;
- 2) the name, registry code and the address of the seat of the out-of-court proceedings authority;
- 3) the given name, surname, position, telephone number and email address of the official of the out-of-court proceedings authority;
- 4) the particulars of the person subject to proceedings according to clause 3 or 4 of subsection 2 of § 56 of this Code;
- 5) the given name, surname, residential address, telephone number and email address of the statutory representative of the natural person;
- 6) the given name, surname, position, address of the seat, telephone number and email address of the statutory representative of the legal person;
- 7) the given name, surname and professional address of the defence counsel, or information to show whether the person subject to proceedings wishes that a defence counsel take part in those proceedings;

8) information to show that notification of the rights and obligations according to § 19 of this Code has been made to the person subject to proceedings.

(2) The main part of the misdemeanour investigation report states:

- 1) a short summary of the misdemeanour and the time and place of its commission;
- 2) the legal designation of the misdemeanour: the title, section, subsection and clause of the relevant statute;
- 3) the statement of the person subject to proceedings or a reference to such a statement having been noted in a separate document;
- 4) the statements of witnesses or a reference to such statements having been noted in a separate document or in separate documents;
- 5) information concerning the harm caused by the misdemeanour;
- 6) where the court has subject matter jurisdiction in the case, information to show whether the person subject to proceedings intends to attend the trial;
- 7) any other evidence and information required for disposing of the case.

(3) If it is necessary to change the legal designation of the misdemeanour that has been recorded in a misdemeanour investigation report, a new entry is added to the report concerning such description, noting the date of each change and affixing the signature of the out-of-court proceedings authority.

(4) Where no arrest report has been drawn up in respect of the person, the final part of the misdemeanour investigation report states:

- 1) the duration of and basis for the arrest, with a reference to subsection 1 of § 44 of this Code;
- 2) the date and time of the arrest;
- 3) a list of the objects taken from the person when arrested, and the identifying features of those objects;
- 4) any representations or applications made by the person arrested.

(5) Information required for proceedings concerning misdemeanours of a certain field may be added to the misdemeanour investigation report.

(6) The final part of a misdemeanour investigation report states that the person subject to proceedings and their defence counsel have a right to file objections with and to offer evidence in the misdemeanour case to the out-of-court proceedings authority, as well as to acquaint themselves with the misdemeanour file on the authority's premises during 15 days following receipt of a copy of the report. On an application of the person subject to proceedings and with the consent of the out-of-court proceedings authority, the time limit for the person to acquaint themselves with the misdemeanour file and to file their objections may be reduced.

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

(7) If a statement of the person subject to proceedings or of a witness has been recorded in the misdemeanour investigation report, the statement is signed, respectively, by the person subject to proceedings or the witness who made that statement. If the person subject to proceedings refuses to give a statement or gives a statement but refuses to sign it, the official of the out-of-court proceedings authority makes a note concerning the refusal in the report.

(8) A misdemeanour investigation report is signed by the official of the out-of-court proceedings authority who drew up the report.

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

#### **§ 70. Service of a copy of the misdemeanour investigation report on the party to proceedings and notification of the time and place for such a party to acquaint themselves with the disposition of the out-of-court proceedings authority**

(1) A copy of the misdemeanour investigation report is handed to the person subject to proceedings against signed acknowledgement of receipt. When handing the report to the person, it is explained to them that they have a right to file objections concerning the report, that the disposition of the out-of-court proceedings authority will be made by written procedure and that they have a right to acquaint themselves with that disposition on the premises of the authority. It is also explained that, if the person so wishes, a copy of the disposition will be sent to their email address.

[RT I, 19.03.2015, 1 – entry into force 01.09.2015]

(2) The party to proceedings signs, on the misdemeanour investigation report, an acknowledgement of having received a copy of the report, noting the date of receipt. If the party refuses to sign for receiving the copy, the proceedings authority records this on the report, noting the date of the refusal and affixing their signature and position title. In such a case, the party is deemed to have received the copy on the date they refused to accept it.

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

(3<sup>1</sup>) If the person subject to proceedings is 14 to 18 years old, the out-of-court proceedings authority, without delay, notifies the fact of a misdemeanour investigation report having been drawn up in respect of the person either to their parent or to another statutory representative or guardian, according to the person's choice.  
[RT I 2010, 44, 258 – entry into force 19.07.2010]

(4) Where the law vests the out-of-court proceedings authority with the power to dispose of the case, the authority's disposition must be available to the person subject to proceedings at the authority's premises when 30 days have elapsed from the handing to the person of a copy of the misdemeanour investigation report. On an application of the person and with the agreement of the authority, the time limit for the person to acquaint themselves with the disposition and for handing the person a copy of the disposition may be reduced. If, at the time the report is handed to the person, or in any objections the person has filed, they have communicated that they wish to receive the disposition to their email address, a copy of the disposition is sent to the address in question.  
[RT I, 19.03.2015, 1 – entry into force 01.09.2015]

(5) In the situation provided for by subsection 4 of this section, when the copy of the misdemeanour investigation report is handed to the person subject to proceedings, the date on which the disposition of the out-of-court proceedings authority will be available to the person to acquaint themselves with it at the authority's premises and on which the person or their defence counsel may receive a copy of it is noted on the report and on the copy. With the agreement of the person, the authority may send a copy of the disposition, when it is ready, to the email address provided by the person or notify the disposition to the person through the E-file system. Notifying the person of the fact that the disposition is ready or sending them a copy of the disposition does not change the time limits provided with respect to the filing of appeal in § 114 of this Code.  
[RT I, 19.03.2015, 1 – entry into force 01.09.2015]

(6) When a copy of the misdemeanour investigation report is handed to the person subject to proceedings, it is explained to them that the time limit for appealing the disposition of the out-of-court proceedings authority starts to run from the date on which the authority's disposition becomes available for the person to acquaint themselves with it at the authority's premises.  
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

#### **§ 71. Sending the misdemeanour file to the district court for trial**

(1) Where, under § 83 of this Code, the power to try the misdemeanour case is vested in the district court – when 20 days have elapsed after a copy of the misdemeanour investigation report was received by the person subject to proceedings or their defence counsel, the out-of-court proceedings authority sends the misdemeanour file together with any objections that have been filed and with any materials annexed to those objections to the district court for trial.

(2) Where, under § 83 of this Code, the power to try the misdemeanour case is vested in the district court and the person subject to proceedings has been arrested under subsection 1 of § 44 of this Code, clause 3 of subsection 2 of § 44 of this Code is followed.  
[RT I 2005, 39, 308 – entry into force 01.01.2006]

## **Division 5 Dispositions under Regular Procedure**

#### **§ 72. Entry of a disposition by an out-of-court proceedings authority**

(1) Where the law vests the out-of-court proceedings authority with the power to dispose of the case and the law does not provide for the case to be considered by the court, the authority in question makes a disposition provided for by § 73 of this Code by written procedure, without summoning the parties to proceedings, based on the statement of the person subject to proceedings, the evidence collected in the case, any objections that have been filed and any materials that have been annexed to those objections.

(2) When making its decision, the out-of-court proceedings authority must dispose of the issues listed in § 108 of this Code.

#### **§ 73. Dispositions of an out-of-court proceedings authority under regular procedure**

(1) The out-of-court proceedings authority enters:

1) a decision concerning the imposition of a fine or, as the principal sanction, concerning withdrawal of a right to drive a vehicle, or concerning the imposition of a fine and, as an ancillary sanction, concerning withdrawal of a right to drive a vehicle or of a right to access state secrets and classified information of a foreign state or of a right to process state secrets and classified information of a foreign state;

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

2) an order to terminate misdemeanour proceedings on the grounds provided by § 29 or § 30 of this Code.

(2) Where the out-of-court proceedings authority makes an order by which it terminates misdemeanour proceedings concerning a minor who at the time of the commission of the unlawful act was incapable of forming

*mens rea* on the grounds of their age or was fourteen to eighteen years of age, the provisions of subsection 2 of § 29 or subsection 2 of § 30 of this Code, respectively, are followed.

#### **§ 74. Content of a decision entered by an out-of-court proceedings authority**

- (1) The decision entered by an out-of-court proceedings authority states:
  - 1) the date and place of rendering the decision;
  - 2) the authority's name, registry code and address;
  - 3) the given name, surname and position of the authority's official who made the decision;
  - 4) the particulars of the person subject to proceedings in accordance with clause 4 or 5 of § 109 of this Code;
  - 5) the place and time of commission of the misdemeanour;
  - 6) a short summary of the misdemeanour;
  - 7) the date of the misdemeanour investigation report on which the decision is based, and the name of the person who made the report;
  - 8) the reasons for disregarding the representations made in an objection;
  - 9) the legal designation of the misdemeanour: the title, section, subsection and clause of the relevant statute;
  - 10) any circumstances mitigating or aggravating the sanction;
  - 11) the amount of the fine imposed on the person subject to proceedings or, where subsection 1 of § 63 of the Penal Code is applied, the amount of the fine in accordance with the statutory provision which prescribes the most severe sanction or, where subsection 3 of § 63 of the Penal Code is applied, the amount of the fine for each separate misdemeanour;
    - 11<sup>1</sup>) the term for which a right to drive a vehicle or a right to access state secrets and classified information of a foreign state, or a right to process such secrets and information, is withdrawn from the person subject to proceedings as the principal or as an ancillary sanction imposed in the case;  
[RT I 2008, 54, 304 – entry into force 27.12.2008]
  - 12) the authority's ruling imposing a confiscation – if the out-of-court proceedings authority has the power to enter such a ruling;
  - 13) payment of the fine in instalments, according to the provisions of subsections 2 and 3 of § 66 of the Penal Code;
  - 14) how items used as physical evidence, or attached or seized, are to be dealt with;  
[RT I, 11.03.2023, 1 – entry into force 01.11.2023]
  - 15) the authority's ruling concerning case costs;
  - 16) the rules and the time limit for appeal against the decision;
  - 17) where the fine is not to be paid in parts, information stating that it must be paid into the bank in full within 45 days counted from the day on which the authority's decision becomes available, on the authority's premises, for the person subject to proceedings to acquaint themselves with it, showing the name and code of the bank and the name of the holder and number of the bank account into which the fine must be paid;  
[RT I, 11.03.2023, 1 – entry into force 01.11.2023]
  - 18) information stating that enforcement of the decision imposing the fine will be mandated if the person subject to proceedings has not paid the fine in full by the due date, except if the person or their defence counsel has filed an appeal against the decision within the time limit;  
[RT I, 11.03.2023, 1 – entry into force 01.11.2023]
  - 19) information to the effect that enforcement of the decision concerning withdrawal of a right to drive a vehicle or of a right to access state secrets and classified information of a foreign state or of a right to process such secrets and information, which has been imposed as the principal or as an ancillary sanction, will be mandated if, when 15 days have elapsed from the date on which the authority's decision was made available, on the authority's premises, for the parties to proceedings to acquaint themselves with it – with the possibility for the parties to obtain a copy of the decision – and the person subject to proceedings or their defence counsel has not filed an appeal against the decision.  
[RT I 2008, 54, 304 – entry into force 27.12.2008]
- (2) The decision is signed by the official of the out-of-court proceedings authority who made it.

#### **§ 75. Order by which misdemeanour proceedings are terminated**

- (1) In the introductory part of an order by which misdemeanour proceedings are terminated, the official of the out-of-court proceedings authority states the particulars as required under subsection 2 of § 48 of this Code.
- (2) The main part of an order by which misdemeanour proceedings are terminated states:
  - 1) the reasons for such a procedural ruling;
  - 2) the ground for termination of the proceedings according to § 29 or § 30 of this Code.
- (3) The operative part of an order by which misdemeanour proceedings are terminated states:
  - 1) the procedural ruling;
  - 2) a ruling on confiscation – if the out-of-court proceedings authority has the power to enter such a ruling;
  - 3) how items used as physical evidence, or attached or seized, are to be dealt with;  
[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

3<sup>1</sup>) where proceedings are terminated under clauses 1–3 and 5–7 of subsection 1 of § 29 of the Code of Misdemeanour Procedure, the removal, from the ABIS Database and from the National Offence Proceedings Database of Biometrics, of any data collected in the misdemeanour case;

[RT I, 03.02.2023, 1 – entry into force 01.09.2023]

4) the rules for challenging the order according to § 76 of this Code.

(4) The order is signed by the official of the out-of-court proceedings authority who made it.

(5) If the out-of-court proceedings authority makes an order on the termination of misdemeanour proceedings concerning a minor who at the time of commission of the unlawful act was incapable of forming *mens rea* on the grounds of their age or was fourteen to eighteen years of age, the provisions of subsection 2 of § 29 or subsection 2 of § 30 of this Code, respectively, are followed.

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

(5<sup>1</sup>) Where data that must be removed from the ABIS Database or from the National Offence Proceedings Database of Biometrics were collected in the misdemeanour case, the proceedings authority notifies the Estonian Forensic Science Institute of the termination of misdemeanour proceedings in a form reproducible in writing.

[RT I, 03.02.2023, 1 – entry into force 01.09.2023]

(6) The party to proceedings, as well as any non-party whose interests are affected by the order may receive a copy of that order.

(7) The party to proceedings– and if applicable, the non-party – signs an acknowledgement on the order for receiving a copy of that order and states the date of receipt of the order.

## **Division 6**

### **Complaining of an Action of the Out-of-court Proceedings Authority**

#### **§ 76. Complaining of or challenging an action of the out-of-court proceedings authority**

(1) Until the decision is made in the case by the out-of-court proceedings authority, the party to proceedings and any non-party affected by such proceedings has a right to bring, to the head of the authority, a complaint about that the authority's actions, or a challenge concerning such an action.

(2) A challenge against an order by which the out-of-court proceedings authority terminated misdemeanour proceedings or by which it ordered a confiscation in those proceedings may be filed by the party to proceedings or by a non-party within 15 days following receipt of a copy of the order.

(3) The complaints and challenges mentioned in subsections 1 and 2 of this section are addressed to the head of the out-of-court proceedings authority and sent to the address of the seat of the authority.

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

(4) The complaint or challenge states:

1) as the addressee, the head of the out-of-court proceedings authority, and the name of the out-of-court proceedings authority with which the complaint or challenge is filed;

2) the given name and surname, procedural role, and residential address or seat of the complainant or challenger;

3) the order or procedural operation contested, the date of making the order or of performance of the procedural operation, and the name of the person in whose respect the order or procedural operation is contested;

4) the part of the order or procedural operation that is contested;

5) the substance of and reasons for the relief sought by the complaint or challenge;

6) a list of the documents annexed to the complaint or challenge.

(5) Complaining of or challenging an action of the out-of-court proceedings authority does not stay the action.

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

#### **§ 77. Resolution of complaint or challenge by the head of the out-of-court proceedings authority**

(1) The head of an out-of-court proceedings authority or an official authorised by a legal instrument of the head of the authority disposes of the complaint or challenge by written procedure within five days following its receipt.

(2) When disposing of a complaint or challenge, the head of the out-of-court proceedings authority or an official authorised by a legal instrument of the head, makes an order:

1) denying the complaint or challenge;

- 2) granting the complaint or challenge in full or in part and, if it is no longer possible to eliminate the infringement of the person's rights, recognising that the rights were infringed;
- 3) setting aside the contested order or staying the contested procedural operation in full or in part, such that the infringement in question is eliminated.

(3) Any denial of a complaint or challenge has to state its reasons.

(4) The complainant or challenger is notified of their right to file an appeal to the district court in accordance with § 78 of this Code concerning the disposition of their complaint or challenge.

(5) Any order entered when dealing with the complaint or challenge is sent without delay to the out-of-court proceedings authority that made the contested order, and a copy of the order to the complainant or challenger. [RT I 2005, 39, 308 – entry into force 01.01.2006]

#### **§ 78. Filing an appeal to the district court**

(1) If the person concerned does not agree with the order made under subsection 2 of § 77 of this Code to dispose of their complaint or challenge, and complains of an action of the out-of-court proceedings authority that has infringed the person's rights or freedoms, they have a right to appeal that order to the district court.

(2) An appeal may be filed:

- 1) by the party to proceedings, within ten days following receipt of the order they are contesting;
- 2) by a non-party, within ten days following the date when they became or should have become aware of the order they are contesting.

(3) An appeal is filed in writing following the requirements of subsection 4 of § 76 of this Code. The appeal is addressed to the district court and filed with the out-of-court proceedings authority that made the order that is being contested.

(4) The out-of-court proceedings authority that receives the appeal transmits it without delay to the district court together with the relevant materials.

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

#### **§ 79. Disposal of the appeal by the district court**

(1) A district judge considers the appeal within five days following its receipt.

(2) The appeal is considered by written procedure concerning the person in whose respect it is filed and having regard to its scope.

(3) When disposing of the appeal, a district judge may:

- 1) deny the appeal;
- 2) grant the appeal in full or in part and, if it is no longer possible to eliminate the infringement of the person's rights, recognise that the rights were infringed;
- 3) set aside the contested order or stay the contested procedural operation in its entirety or in part, such that the infringement in question is eliminated.

(4) The court that receives the appeal may stay the contested order or procedural operation.

(5) Any order entered when dealing with the appeal is sent by the district court without delay to the out-of-court proceedings authority that made the contested order, and a copy of the order to the appellant.

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

#### **§ 80. Abandoning a complaint, challenge or appeal**

A complaint, challenge or appeal made concerning the actions of the out-of-court proceedings authority that has been filed under § 76 or § 78 of this Code may be abandoned until it is disposed of.

## **Division 7 Clerical Arrangements in Out-of-court Proceedings**

#### **§ 81. Assembling the misdemeanour file and organising clerical business in misdemeanour proceedings**

(1) When out-of-court proceedings in a case are completed, the out-of-court proceedings authority assembles the corresponding misdemeanour file by systematising the materials of the case.

[RT I, 03.02.2023, 1 – entry into force 01.05.2023]

(2) The out-of-court proceedings authority organises clerical business in misdemeanour proceedings in accordance with the document management procedure applicable in authorities of the executive branch, without prejudice to any special rules provided by this Code.

### **§ 81<sup>1</sup>. E-file procedural information management system**

(1) The E-file procedural information management system (hereinafter, 'the E-file system') is a database which is part of the national information system, which is maintained for the processing of procedural information and personal data in misdemeanour proceedings and whose purpose is:

- 1) to provide an overview of misdemeanour cases dealt with by proceedings authorities and by courts as well as cases in which misdemeanour proceedings were not commenced;
- 2) to record information concerning operations performed in the course of misdemeanour proceedings;
- 3) to facilitate organising the work of proceedings authorities;
- 4) to ensure the collection of statistics which are necessary for the making of dispositions related to criminal justice policy;
- 5) to provide a channel for electronic transmission of data and documents.

(2) The following information is entered in the database:

- 1) information concerning misdemeanour proceedings which are being conducted, cases in which it has been decided not to commence misdemeanour proceedings, and cases in which misdemeanour proceedings have been terminated;
- 2) particulars of operations performed in the course of misdemeanour proceedings;
- 3) digital documents where this is provided for by this Code;
- 4) information concerning the proceedings authority, the party to proceedings, the offender, as well as any experts and witnesses;
- 5) the disposition of the out-of-court proceedings authority and of the court.

(3) The E-file system is established and its Constitutive Regulations are enacted by the Government of the Republic.

(4) The controller of the data in the E-file system is the Ministry of Justice and Digital Affairs. The processors of the data in the system are the persons designated by the Minister in charge of the policy sector.

[RT I, 30.12.2024, 1 – entry into force 01.01.2025, the words "Ministry of Justice" replaced with words "Ministry of Justice and Digital Affairs" on the basis of subsection 12 of § 105.19 of the Government of the Republic Act.]

(5) The Minister in charge of the policy sector may enact regulations to make arrangements concerning the operation of the E-file system.

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

### **§ 82. Registration of misdemeanour cases**

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

## **Chapter 11 TRIAL OF A MISDEMEANOUR CASE IN THE DISTRICT COURT**

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

### **Subchapter 1 Power to Try a Misdemeanour Case and Preparation for Trial**

#### **§ 83. Jurisdiction to deal with the misdemeanour case**

A misdemeanour case is dealt with by a district judge where:

- 1) the power to deal with the case or to make a confiscation order in the case is vested in the district court by law;
- 2) when dealing with the misdemeanour case, the imposition of a short-term custodial sentence or of a corrective measure applicable to minors, or the making of an order disqualifying a person from keeping an animal, is to be decided on.

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

#### **§ 84. Sending the misdemeanour file to the district court for trial**

If the power to try a misdemeanour case is vested in the district court under § 83 of this Code, the out-of-court proceedings authority sends the misdemeanour file to the Court following the rules provided by subsection 1 of § 71 of this Code for trial.



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

#### **§ 85. Preparing a misdemeanour case for trial**

- (1) When preparing a misdemeanour case for trial, the district judge:
- 1) verifies whether the court has jurisdiction;
  - 2) identifies the parties to judicial proceedings as well as any witnesses, interpreters or translators and experts, and notifies them of the time and place of the trial;
  - 3) ascertains the evidence that has to be examined at the trial and takes the measures required for such evidence to be presented when it is needed;
  - 4) deals with the examination of any witnesses in another district court, to be carried out under the rules governing mandatory requests for assistance;
  - 5) disposes of the commissioning of any expert assessments, taking into account the relevant submissions of the parties;
  - 6) disposes of any motions made by the parties.

(2) Where the court finds that dealing with the case falls within the jurisdiction of an administrative court and the administrative court has previously declined jurisdiction concerning the case, the court that has jurisdiction to deal with the case is determined by the Special Panel composed of members of the Criminal and the Administrative Chamber of the Supreme Court following the rules provided by § 711 of the Code of Civil Procedure.

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

#### **§ 86. Summoning of persons to trial**

The parties to judicial proceedings as well as any witnesses, interpreters or translators and experts are summoned to the district court in accordance with the provisions of §§ 40 and 41 of this Code.

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

## **Subchapter 2 General Principles for Trial in Misdemeanour Cases**

#### **§ 87. Scope of the trial**

A misdemeanour case is tried strictly in respect of the person subject to proceedings and within the scope provided by the misdemeanour investigation report.

#### **§ 88. Maintenance of order at the trial**

(1) The parties to proceedings and other persons present in the courtroom must comply with any lawful orders of the district judge.

(2) The judge may impose a fine of up to 30 fine units on any person who interferes with or obstructs the trial of a misdemeanour case, or remove them from the courtroom.

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

#### **§ 89. Participation of the person subject to proceedings in the trial**

(1) A person subject to proceedings has a right to participate in the trial of their misdemeanour case personally, together with a defence counsel or through such a counsel.

(2) The district judge may require a person subject to proceedings to participate in the trial of their misdemeanour case if this is necessary in the interests of proceedings.

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

#### **§ 90. Conducting the trial of a misdemeanour case without the presence of the person subject to proceedings or their defence counsel**

(1) If the person subject to proceedings and their defence counsel have been notified of the place and time of the trial, and have received a summons before the trial but have not moved for trial to be adjourned, or if the motion for adjournment has not been granted, the trial is conducted without that person or their counsel.

(1<sup>1</sup>) The court may arrange the participation of the parties to judicial proceedings in the trial of the misdemeanour case by means of a technical solution that complies with the requirements mentioned in clause 1 of subsection 2 of § 69 of the Code of Criminal Procedure.

[RT I, 06.05.2020, 1 – entry into force 07.05.2020]

(2) On a reasoned application of the person subject to proceedings or their defence counsel, the trial of a case is adjourned by an order following the provisions of subsection 1 of § 93 of this Code.

(3) The trial of a case is adjourned by an order if the defence counsel of the person who is subject to proceedings and who is 14 to 18 years of age or suffers from a mental disorder does not appear for the trial.

#### **§ 91. Participation of the out-of-court proceedings authority in the trial**

(1) Participation of the out-of-court proceedings authority in the trial of the misdemeanour case in the district court is mandatory and is notified to the authority in the summons sent to it.

(2) If the relevant official of the out-of-court proceedings authority does not appear at the trial of the case, the district judge adjourns the trial and notifies the head of the authority in writing of the non-appearance of the official.

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

#### **§ 92. Proceeding with the trial of a misdemeanour case without the presence of a witness or expert**

If a witness or expert does not appear at the trial of a case, the district judge decides on whether it is possible to proceed with the trial after having heard the positions of the parties to judicial proceedings in the matter.

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

#### **§ 93. Adjournment of trial**

(1) The trial of a misdemeanour case is adjourned if:

- 1) the trial cannot be conducted without the presence of the person who has not appeared for it;
- 2) proceeding with the trial is ruled out because of other valid reasons.

(2) Before the trial is adjourned, the persons who have appeared for the trial may be examined and a decision may be made not to summon them for a second time.

#### **§ 94. Form of court order**

(1) The termination of misdemeanour proceedings, the ordering of a person to be forcibly brought in, a person's recusal, or the commissioning of an expert assessment is issued as an order made by the court in the deliberations room following the provisions of § 48 of this Code.

(2) Court orders not mentioned in subsection 1 of this section are issued as procedural documents to be included in the misdemeanour file, or are made orally and noted in the record of the trial.

## **Subchapter 3 Lead-in Stage of Trial in a Misdemeanour Case**

#### **§ 95. Opening the trial of a misdemeanour case**

The district judge opening the trial of a misdemeanour case:

- 1) announces the name of the case to be tried;
- 2) ascertains who, of the persons summoned, has appeared at the trial, establishes their identity and verifies the authority of the defence counsel and of any representatives;
- 3) ascertains whether the party or parties to judicial proceedings as well as any witnesses, interpreters or translators and experts who have not appeared have received the summons;
- 4) following the provisions of criminal procedure, performs the operations to lead in any interpreters or translators, experts and witnesses;
- 5) announces their own name and the names of any interpreters or translators and experts, and explains to the parties their rights;
- 6) invites the parties to state any recusal motions or any other motions or applications that they have and disposes of such motions or applications.

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

## **Subchapter 4 Trial – Examination of the Case**

#### **§ 96. Trial – commencement of examination of the case**

(1) The judge announces the commencement of examination of the case and invites the out-of-court proceedings authority to present the misdemeanour investigation report.

(2) After presentation of the misdemeanour investigation report, the judge explains the substance of the report to the person subject to proceedings and asks whether they admit having committed the misdemeanour.

### **§ 97. Sequence in which the evidence is to be examined**

The judge hears the submissions of the parties to proceedings concerning the sequence in which the evidence is to be examined and makes an order concerning that sequence, which is noted in the record of the trial.

### **§ 98. Rules for examining the person subject to proceedings**

- (1) The examination of the person subject to proceedings commences by the judge inviting them to state their account of the circumstances on which the misdemeanour investigation report is based.
- (2) The official of the out-of-court proceedings authority and the defence counsel may put questions to the person subject to proceedings after the person has made their statement.
- (3) The court has a right to put questions to the person subject to proceedings at any stage of the examination of the case.
- (4) The person subject to proceedings has a right to put questions to the other party to judicial proceedings throughout the stage of examination of the case.
- (5) If the trial is conducted without the presence of the person subject to proceedings, the judge makes known any prior statement given by the person and the substance of their written representations, if any have been submitted.

### **§ 99. Rules for examining a witness**

- (1) A witness is examined individually, without the presence of other witnesses who have not yet been examined. Before the examination, the witness's identity is established and their relationship with the person subject to proceedings is ascertained.
- (2) The judge invites the witness to tell the court everything they know about the misdemeanour case.
- (3) After the witness has stated their account, they are examined by the official of the out-of-court proceedings authority, by the person subject to proceedings and by the defence counsel.
- (4) Where a witness has been summoned to court on a motion of a party to proceedings, that party is the first to examine the witness.
- (5) Questions may be put to the witness to clarify or expand on the statements they have previously provided. The judge is required to exclude questions which are irrelevant to the misdemeanour case as well as any leading questions. The judge has a right to examine the witness at any time during the stage of examination of the case.
- (6) The judge may, of their own motion or on a motion of a party, examine several witnesses concurrently in order to resolve a contradiction in their testimony.
- (7) Witnesses who have been examined stay in the courtroom until the end of the stage of examination of the case and may not leave without permission from the judge.
- (8) If a witness has not appeared for the trial, the district judge may disclose the statement made by the witness in out-of-court proceedings.  
[RT I 2005, 39, 308 – entry into force 01.01.2006]

### **§ 100. Examination of written evidence**

Written evidence is disclosed and presented to the parties to judicial proceedings who participate in the trial and, if this is needed, to any experts and witnesses.

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

- (1) Physical evidence may be inspected at any time during the stage of examination of the case on the judge's own motion or on a motion of a party to judicial proceedings. In relation to the inspection, representations may be made to the court by the parties and statements provided by the person subject to proceedings.
- (2) The judge may conduct an on-site inspection of the scene of the misdemeanour and of any physical evidence that it is not possible to bring to court. The inspection is conducted by the judge in the presence of the parties to judicial proceedings and, if this is required, of the relevant witnesses or experts.
- (3) The course and results of the inspection are noted in the record of the trial.

### **§ 102. Expert assessment in the trial of misdemeanour case**

(1) The judge may, of their own motion or on a motion of a party to judicial proceedings, commission an expert assessment in the case.

(2) When participating in the trial of a misdemeanour case, an expert may examine any evidence that is needed for conducting their assessment and, with the permission of the proceedings authority, put questions to the parties to judicial proceedings and to any witnesses concerning any circumstances relevant to conducting the assessment.

### **§ 103. Trial – completion of the stage of examination of the case**

(1) After the entirety of the evidence in the misdemeanour case has been examined, the judge asks the parties to judicial proceedings whether they have any motions to make for adding further elements to the examination.

(2) The court disposes of any motions that have been made by an order.

(3) After the performance of any additional procedural operations that are required, the judge declares the stage of examination of the case to have been completed.

## **Subchapter 5 Closing Arguments**

### **§ 104. Rules for closing arguments**

(1) When presenting their closing arguments, the parties to judicial proceedings speak in the order determined by the court. The last to speak is the person subject to proceedings.

(2) The court may not limit the duration of the closing arguments but may interrupt the party presenting their arguments if they digress from the facts established during examination of the case.

(3) When closing arguments have been heard, the district judge announces the time of pronouncement of the disposition.

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

## **Subchapter 6 Record of the Trial**

### **§ 105. Keeping a record of the trial**

(1) A record of the trial is kept where a witness or expert is examined during the trial or where a party to judicial proceedings makes a motion for such a record to be kept. Where no record has been kept of the trial, any motions made by the parties must appear in the judgment.

(2) The record states:

- 1) the date and place of the trial, and the time of its beginning and of its end;
- 2) the name and panel of the court;
- 3) the names of the parties to judicial proceedings, of the judicial hearing clerk and of any interpreters or translators and of experts;
- 4) the title of the misdemeanour case tried;
- 5) the explanation of their rights and obligations to the parties and to any other persons;
- 6) the names of the operations performed by the court, in chronological order, and the conditions, course and results of those operations;
- 7) any representations, motions or applications, and any rulings concerning these;
- 8) the titles of the orders made at the trial;
- 9) the requests for relief made by the parties in their closing arguments;
- 10) the making of the judgment or order in camera;
- 11) the time of pronouncement of the judgment or order, and explanation of the rules for appeal;
- 12) the date when the disposition becomes available at the court for the parties;
- 13) any waivers of the right of appeal, notified at the time of pronouncement of the judgment.

(3) The judge and the judicial hearing clerk sign the record within three days following the trial. Any amendments made to the record must be certified by the signatures of the judge and of the clerk.

### **§ 106. Observations concerning the record of the trial**

(1) The parties to judicial proceedings have a right to submit their observations concerning the error or inaccuracy of the record of the trial within three days following the signing of the record. The observations are

considered by the judge who, if they agree with those observations, rectifies the record, such rectification being certified by the signatures of the judge and of the judicial hearing clerk.

(2) If the judge does not agree with the observations submitted, they make an order ruling the observations to be erroneous. The party who submitted the observations has a right to restate these in the appeal filed against the disposition rendered by the court in the case.

## **Subchapter 7 Dispositions**

### **§ 107. Dispositions of the district court**

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

(1) The district court enters:

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

1) a judgment by which it imposes a fine or a short-term custodial sentence or, as the principal sentence or as an ancillary sanction, withdrawal of a right to drive a vehicle or, as an ancillary sanction, withdrawal of a right to access State secrets and classified information of a foreign state, or the entitlement to process such secrets and information, or disqualifies the person subject to proceedings from keeping an animal;

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

2) a judgment by which it terminates misdemeanour proceedings in the case on the grounds provided by clause 1 of subsection 1 of § 29 and by § 30 of this Code.

(2) Where the grounds provided by clauses 2–7 of subsection 1 of § 29 of this Code are present, the court enters an order by which terminates misdemeanour proceedings in the case. If the court renders a judgment or order by which it terminates misdemeanour proceedings concerning a minor who, at the time of commission of the unlawful act, was incapable of forming *mens rea* on the grounds of their age or was fourteen to eighteen years of age, the provisions, respectively, of subsection 2 of § 29 or subsection 2 of § 30 of this Code are followed.

(3) To a judgment or order by which it imposes, on a party to proceedings, the obligation to pay a sum of money to the Republic of Estonia under a claim which has not arisen from participation of the State or any of its administrative authorities in the proceedings as a party to those proceedings, the court may add, as a separate document, the particulars required for payment of the claim.

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

(4) The list of particulars required for performance of the claim mentioned in subsection 3 of this section and the technical requirements for formalizing these are enacted by a regulation of the Minister in charge of the policy sector.

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

### **§ 108. Issues to be disposed of when entering a judgment in the case**

The following are ascertained in order to enter a judgment in the case:

1) whether an act has been committed that has the elements of a misdemeanour as defined by the relevant statute;

2) the legal designation of the misdemeanour: the title, section, subsection and clause of the relevant statute;

3) whether the misdemeanour was committed by the person subject to proceedings;

4) the unlawfulness and culpability of the act;

5) whether any mitigating or aggravating circumstances are present;

6) the type and term or amount of the sentence or order;

7) how the objects used as physical evidence and any other objects seized in the course of proceedings – if any objects have been so used or seized – are to be dealt with;

8) whether a confiscation order needs to be made;

9) whether the sentence is to be imposed under subsections 1 or 3 of § 63 of the Penal Code;

10) whether misdemeanour proceedings in the case are to be terminated and a corrective measure applicable to minors provided for by § 87 of the Penal Code is to be imposed;

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

11) how – under the Compensation for Harm Caused in Offence Proceedings Act – to dispose of an application seeking compensation for harm caused in the proceedings.

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

### **§ 109. Introductory part of the judgment**

The introductory part of the judgment states:

1) that the judgment is rendered in the name of the Republic of Estonia;

- 2) the place and time of rendering the judgment;
- 3) the name of the court that renders the judgment, the given name and surname of the judge, the given name and surname of the judicial hearing clerk, of the official of the out-of-court proceedings authority, of the defence counsel and of any interpreters or translators, who took part in the trial of the case;
- 4) where the person subject to proceedings is a natural person, their given name, surname and personal identification code or, if the person is an alien or does not possess a personal identification code, their place and date of birth, nationality, residential address and place of employment;
- 5) where the person subject to proceedings is a legal person, their name and registry code or, if the person is a foreign legal entity, the combination of numbers or letters equivalent to a registry code, and the address of their seat;
- 6) the title, section, subsection or clause of the statute that defines the misdemeanour in question at the trial conducted by the court.

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

The main part of the judgment states:

- 1) the time and place of commission of the misdemeanour, the circumstances that were found to be proven at the trial of the case, and the supporting evidence;
- 2) any circumstances that were not proved at the trial, any evidence which was considered to be unreliable, and the reasons why the court considered it to be so;
- 3) any facts which were declared to be a matter of common knowledge at the trial, and which are relied upon in the judgment;
- 4) the unlawfulness and culpability of the act;
- 5) any mitigating and aggravating circumstances;
- 6) the reasons for any amendments to the legal designation of the misdemeanour at the trial of the case, and for the imposition of a sentence that falls below the minimum sentence prescribed by the relevant statute;
- 7) the provisions of this Code under which judgment is given in the case.

### **§ 111. Operative part of the judgment**

The operative part of the judgment states:

- 1) the given name and surname of the natural person or the name of the legal person subject to proceedings;
- 2) the misdemeanour or misdemeanours of which the person subject to proceedings is convicted, and the title, section, subsection and clause of the statute under which the conviction is entered;
- 3) the amount of any fines imposed on the person subject to proceedings or, where subsection 1 of § 63 of the Penal Code is applied, the amount of the fine according to the provision of law which prescribes the most severe sentence or, where subsection 3 of § 63 of the Penal Code is applied, the amount of the fine for each separate misdemeanour;
- 4) the short-term custodial sentence imposed on the person subject to proceedings and the time when they are to start serving their sentence;
- 4<sup>1</sup>) the term for which a right of the person subject to proceedings to drive a vehicle is withdrawn, as the principal or as an ancillary sanction, or the term for which their right to access state secrets and classified information of a foreign state, or their right to process such secrets and information, is withdrawn as an ancillary sanction, or the term for which the person is disqualified from keeping an animal;  
[RT I, 12.07.2014, 1 – entry into force 01.01.2015]
- 5) where the provisions of subsections 2 and 3 of § 66 of the Penal Code are applied, payment of the fine in instalments or, where subsections 1 and 3 of the same section are applied, the serving of the short-term custodial sentence as part-terms staggered in time;
- 6) the ruling concerning any confiscation in the case;
- 7) how items of physical evidence, attached property or other property objects that have been seized are to be dealt with;  
[RT I, 11.03.2023, 1 – entry into force 01.11.2023]
- 8<sup>1</sup>) a decision concerning an application seeking compensation – under the Compensation for Harm Caused in Offence Proceedings Act – for harm caused in the proceedings;  
[RT I, 20.11.2014, 1 – entry into force 01.05.2015]
- 9) the rules and time limit for appeal against the judgment;
- 10) information stating that the fine must be paid into the bank within 45 days, counted from the day on which the judgment becomes available at the court for the parties to acquaint themselves with it, and the name and code of the bank, the name of the holder and number of the account into which the fine must be paid;  
[RT I, 11.03.2023, 1 – entry into force 01.11.2023]
- 11) information stating that enforcement of the judgment will be mandated if the person subject to proceedings has not paid the fine in full by the due date, except where the person or their defence counsel has filed an appeal against the judgment within the time limit.  
[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

### **§ 112. Order to terminate misdemeanour proceedings**

(1) Where the grounds provided by subsection 2 of § 107 of this Code are present, the district judge enters an order to terminate misdemeanour proceedings in the case, following the provisions of subsections 2–4 of § 48 of this Code. The order states the decision made concerning an application seeking compensation – under the Compensation for Harm Caused in Offence Proceedings Act – for harm caused in the proceedings.  
[RT I, 20.11.2014, 1 – entry into force 01.05.2015]

(2) The parties to proceedings as well as any non-parties whose interests by the order provided for by subsection 1 of this section concerns may receive a copy of that order.

### **§ 113. Pronouncement of the court's judgment or of its operative part; explanation of the right of appeal to the circuit court of appeal**

(1) The judge pronounces the court's judgment at the time announced according to subsection 3 of § 104 of this Code.

(2) The court may draw up the operative part of its judgment as a separate procedural document and explain the main reasons for the judgment orally when pronouncing that judgment.

(3) If the person subject to proceedings is not proficient in the language of proceedings, they are provided a translation of the operative part of the judgment and of the explanations of the judge.

(4) Having pronounced a judgment or the operative part of a judgment, the judge:

1) where only the operative part of a judgment was pronounced, announces the day on which the judgment will be available at the court for the parties to judicial proceedings to acquaint themselves with it and on which they may receive a copy of it; the announcement is noted in the record of the trial or, if no record was kept, as a note on the operative part of the judgment;

2) explains the rules for appeal against the judgment according to subsection 3 of § 137 of this Code as well as a party's right to waive the right of appeal to the circuit court of appeal forthwith. Any waivers are noted in the record of the trial or, if no record was kept, as a note on the operative part of the judgment, and certified by having the person who makes the waiver affix their signature;

3) explains that if a party intends to exercise their right of appeal to the circuit court of appeal, the party must notify this to the district court in writing within seven days following pronouncement of the operative part of the judgment, except in the situation provided for by subsection 1<sup>1</sup> of § 137 of this Code.

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

(5) Following the provisions of § 41 of this Code, the court sends a copy of its disposition to a party who did not attend the pronouncement of that disposition.

(6) If, in accordance with the rules provided by clause 2 of subsection 4 of this section, all parties have waived their right to appeal to the circuit court of appeal or if, within the time limit provided by clause 3 of subsection 4 of this section, none of the parties has notified the court of their intention to exercise that right, only the information provided for by §§ 109 and 111 of this Code is stated in the judgment.

(7) The judgment or the operative part of the judgment is placed in the misdemeanour file.

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

## **Chapter 12 PROCEDURE FOR APPEALS TO THE DISTRICT COURT**

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

### **Subchapter 1 Filing an Appeal with the District Court Against a Decision of an Out-of-court Proceedings Authority**

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

#### **§ 114. Right to file an appeal with the district court and time limit for filing the appeal**

(1) The party to proceedings has a right to file an appeal with the district court against the following decisions of an out-of-court proceedings authority:

1) a decision made in accordance with subsection 2 of § 55 of this Code under expedited procedure;

2) a decision made in accordance with subsection 1 of § 73 of this Code under regular procedure;

[RT III 2008, 24, 160 – entry into force 16.05.2008, judgment No. 3–1–1–88–07 of the Supreme Court

*en banc* dated 16.05.2008, which declares clause 2 of subsection 1 of § 114 of the Code of Misdemeanour

Procedure to be contrary to the Constitution, and repeals it, insofar as it does not allow a non-party to file an

appeal with the district court against the part of a decision made in accordance with subsection 1 of § 73 of that Code under regular procedure which imposes confiscation of a means of transport that belongs to the non-party.]

3) a decision made following the abridged procedure under subsection 1 of § 54<sup>9</sup> of this Code, if the person subjected to that procedure was exempted from paying a fixed penalty, and the person has abided by the terms of the alternative measure described in the decision.

[RT I, 28.05.2021, 11 – entry into force 07.06.2021]

(2) No appeal lies against a decision to caution a person, or against a penalty notice, made respectively in accordance with § 54 and § 54<sup>2</sup> of this Code.

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

(3) An appeal against a decision of the out-of-court proceedings authority which was made under expedited procedure and which is provided for by clause 1 of subsection 1 of this section is filed with the district court within 15 days following receipt of the decision by the person subject to proceedings.

(4) An appeal against a decision of the out-of-court proceedings authority which was made under regular procedure and which is provided for by clause 2 of subsection 1 of this section is filed with the district court within 15 days following the day on which the decision was made available, on the authority's premises, for the parties to proceedings to acquaint themselves with it.

(5) During the time limit for appeal, the misdemeanour file is kept on the premises of the out-of-court proceedings authority and is not to leave those premises. The parties to proceedings may acquaint themselves with the file and copy material from it by hand or apply for copies to be made, for a charge, of the materials in the file.

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

### **§ 115. Requirements for appeal against a decision of an out-of-court proceedings authority**

(1) An appeal against a decision made by the out-of-court proceedings authority is filed in writing and states:

- 1) the name of the court with which the appeal is filed;
- 2) if the appellant is a natural person, their given name, surname, residential address, telephone number and email address;
- 3) if the appellant is a legal person, their name and registry code or, where they are a foreign legal entity, the combination of numbers or letters equivalent to a registry code, and the address of their seat, their telephone number and email address;
- 4) if the appellant has a defence counsel, their given name and surname, the address of their seat, their telephone number and email address;
- 5) the name and address of the out-of-court proceedings authority that made the decision;
- 6) the number and date of the decision and the given name and surname of the natural person or the name of the legal person who is subject to proceedings and in whose respect the decision that was made is being contested;
- 7) the part of the decision that is contested;
- 8) the substance of and reasons for the relief sought by the appellant;
- 9) the persons who, by the appellant's motion, should be called at the trial, and the evidence whose examination by the court the appellant considers necessary and moves for.

(2) The appeal is filed together with the number of copies that corresponds to the number of persons to participate in the proceedings.

(3) The appellant must state the following in their appeal:

- 1) whether they intend to participate in the trial of their case;
- 2) if they do not have a defence counsel, whether they would like one to take part in proceedings.

(4) The appeal is signed by the appellant. If the appeal is signed by the defence counsel, their power of attorney is annexed to the appeal, unless it already appears in the misdemeanour file.

(5) The following are annexed to the appeal:

- 1) a copy of the decision of the out-of-court proceedings authority against which the appeal is filed;
- 2) any evidence relied on;
- 3) the names and addresses of any witnesses whose examination is the appellant moves for;
- 4) other documents that the appellant considers necessary.

### **§ 116. Instruction to send over the misdemeanour file and sending the file over to the district court**

(1) Having received an appeal against a decision made by an out-of-court proceedings authority in accordance with subsection 2 of § 55 of this Code under expedited procedure, or in accordance with subsection 1 of § 73 of this Code under regular procedure, the district court, without delay, instructs the authority to send the misdemeanour file over to the court.

(2) When the district court issues such an instruction, the out-of-court proceedings authority sends the misdemeanour file over to the court without delay.

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



## **Subchapter 2**

### **Preliminary Judicial Proceedings**

#### **§ 117. Operations of preliminary proceedings**

(1) In preliminary proceedings, the district judge:

- 1) verifies whether the court has jurisdiction over the case and whether the requirements of §§ 114 and 115 of this Code have been complied with;
- 2) provisionally refuses to consider or dismisses the appeal on the grounds provided by § 118 of this Code;
- 3) terminates misdemeanour proceedings in the case on the grounds provided by § 119 of this Code, or
- 4) disposes of the case by written procedure in accordance with § 120 of this Code.

(2) If the appeal is not disposed of in accordance with clauses 2–4 of subsection 1 of this section, the judge ascertains the persons to be summoned to the trial and, based on the appeal, determines the scope of the issues for and the evidence to be examined at the trial, rules on any motions made in the appeal, sends copies of the appeal to the parties to judicial proceedings and, following § 121 of this Code, schedules the case for trial.

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

#### **§ 118. Provisional refusal to consider, and dismissal of, an appeal during preliminary proceedings**

(1) If an appeal is not in compliance with the requirements of § 115 of this Code, the district judge makes an order by which they provisionally refuse to consider the appeal and set a time limit for the appellant to cure its defects.

(2) The district judge makes an order by which they dismiss the appeal and send a copy of the order to the appellant, also returning the appeal to the appellant, if:

- 1) the appeal is filed after expiry of the time limit provided respectively in subsection 3 or subsection 4 of § 114 of this Code and no application has been made for reinstatement of the time limit or the judge has decided not to reinstate the time limit;
- 2) the appeal is filed by a person who under subsection 1 of § 114 of this Code does not have a right to file an appeal;
- 3) the appellant has not cured the defects found in the appeal within the time limit set under the rule provided by subsection 1 of this section;
- 4) the appeal is abandoned before the beginning of the trial.

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

#### **§ 119. Termination of misdemeanour proceedings due to the presence of circumstances precluding such proceedings**

(1) A district judge may by order set aside the decision of the out-of-court proceedings authority without conducting a trial or summoning the parties to proceedings and terminate misdemeanour proceedings in the case solely on the basis of the appeal if they find that, during the out-of-court procedure, proceedings should have been terminated due to the presence of circumstances precluding misdemeanour proceedings according to § 29 of this Code.

(2) A copy of the order mentioned in subsection 1 of this section is sent to the parties to proceedings. Any non-parties whose interests the order affects may receive a copy of the order.

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

#### **§ 120. Disposing of the case by written procedure**

(1) The district judge may dispose of an appeal by written procedure without a trial, entering a disposition in accordance with the provisions of § 132 of this Code, provided the court has sent a copy of the appeal to the other party to judicial proceedings and has ascertained the position of that party with regard to the appeal, and the parties have declared, in the appeal or in the response, that they do not intend to attend the trial.

(2) If, during written procedure, the district court finds that the case should be disposed of by trial, the court orders the trial.

(3) Where a party, when lodging their appeal, has offered new evidence to the district court and the court has accepted the evidence, the case may be dealt with by written procedure only if the parties do not make a motion for such new evidence to be examined at a hearing.

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

### **§ 120<sup>1</sup>. Termination of misdemeanour proceedings on abandonment of the same**

(1) Where the out-of-court proceedings authority, in its response to the court, abandons the misdemeanour charges against the person subject to proceedings, the district judge enters an order by which they set aside the authority's decision and terminate misdemeanour proceedings on the ground provided by clause 1 of subsection 1 of § 29 of this Code without ordering a trial and without summoning the parties to proceedings.

(2) In a situation provided for by subsection 1 of this section, the decision may be made not to terminate misdemeanour proceedings at the stage of preliminary judicial proceedings provided this is needed to dispose of any other motions made in the appeal.

(3) A copy of the order stated in subsection 1 of this section is sent to the parties to proceedings. A copy may be issued to a non-party whose interests it affects.

[RT I, 11.03.2023, 2 – entry into force 01.05.2023]

### **§ 121. Scheduling the appeal for trial before the district court**

(1) The order of the district court scheduling the appeal for trial states:

- 1) the place and time of the trial;
- 2) the given name and surname of any natural person, or the name of any legal person, to be called to the trial;
- 3) whether the trial in the case will be open or closed to the public;
- 4) appointment of a defence counsel in accordance with § 22 of this Code;
- 5) the court's rulings on any motions made.

(2) No appeal lies against the order mentioned in subsection 1 of this section with respect to its denial of a motion, but the motion may be repeated at the trial.

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

### **§ 122. Summoning a person to trial**

The parties to judicial proceedings are summoned to trial by a summons following the provisions of §§ 40 and 41 of this Code.

## **Subchapter 3 Trial of an Appeal to the District Court**

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

### **§ 123. Rules governing trial of an appeal**

(1) The trial of an appeal to the district court is governed by the provisions of this Code concerning trials in misdemeanour cases, without prejudice to the special rules provided by Subchapters 3 and 4 of this Chapter.

(2) The district court conducts the trial of an appeal having regard to the entirety of the misdemeanour case regardless of the scope of the appeal filed in the case, verifying the factual and legal circumstances that served as the basis for the decision made by the out-of-court proceedings authority.

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

### **§ 124. Lead-in stage of the trial**

(1) The court announces the case on trial and the name of the person on whose appeal the trial is conducted.

(2) The court commences the trial of an appeal by performing the operations provided for by § 95 of this Code.

### **§ 125. Adjourning the trial of an appeal**

(1) On a reasoned motion of a party to judicial proceedings, the district judge, basing their assessment on § 42 of this Code, may adjourn the trial of an appeal once for a period of up to one month. The district judge may also adjourn the trial for the same period if, during the trial, the need emerges to require additional evidence to be produced.

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

(2) The court may adjourn the trial of the appeal on a motion of a party to proceedings or of its own motion for the period that it takes the Supreme Court to dispose of a constitutional review case pending before that Court, until the entry into effect of the judgment to be given by the Court, if such a judgment may have an impact on the validity of the legislative or regulatory instrument which is to be applied in the misdemeanour case at hand.

(3) [Repealed – RT I, 05.12.2017, 1 – entry into force 15.12.2017]

## **§ 126. Participation of the appellant and of the out-of-court proceedings authority in the trial of the appeal**

(1) Participation of the appellant and of the out-of-court proceedings authority in the trial of the appeal is mandatory if the court deems it necessary.

(1<sup>1</sup>) The court may arrange for the participation of the parties to judicial proceedings in the trial of the appeal by means of a technical solution that complies with the requirements mentioned in clause 1 of subsection 2 of § 69 of the Code of Criminal Procedure.

[RT I, 06.05.2020, 1 – entry into force 07.05.2020]

(2) If the appellant does not appear for the trial of their appeal although they have been notified of the obligation to attend the trial in a summons sent to them and the trial is not adjourned in accordance with § 125 of this Code, the court enters an order dismissing the appeal.

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

(2<sup>1</sup>) If, in a situation described in subsection 2 of this section, the appellant's defence counsel attends at the trial, the court invites them to make an application to have the appeal tried without the appellant being in attendance. If such an application is denied, the trial is adjourned once in accordance with subsection 1 of § 125 of this Code.

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

(3) Non-appearance of the out-of-court proceedings authority does not preclude the court from proceeding with the trial.

## **§ 127. Abandoning the appeal**

(1) Until the end of the trial, the appellant has a right to abandon the appeal in part or in its entirety.

(2) A representation abandoning the appeal is filed with the district court in writing or is made orally during the trial. Where the representation is in writing, it is placed in the misdemeanour file, and where one is made orally, it is noted in the record of the trial and the appellant is required to certify it by their signature.

(3) A person subject to proceedings has a right to abandon an appeal filed by their defence counsel, provided that participation of the counsel in misdemeanour proceedings is not mandatory.

(4) If the district court ascertains that substantive law has been erroneously applied in the case or a material violation of the law of misdemeanour procedure has occurred, whereby the situation of the person subject to proceedings has been aggravated, the court does not accept the abandonment.

(5) If an appeal is abandoned before the beginning of the trial, it is dismissed by an order. If the appeal is abandoned during the trial, proceedings are terminated by an order.

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

## **§ 128. Trial – rules for the stage of examination of the case under appeal**

(1) The court states the part of the decision made by the out-of-court proceedings authority that has been appealed, the substance of and the reasons for the relief sought by the appeal, and the substance of any other documents presented to the court with the appeal.

(2) The court explains to the appellant their right to abandon the appeal according to § 127 of this Code and the consequences of the abandonment, and asks whether they intend to proceed with the appeal or to abandon it in part or in its entirety.

(3) When examining any evidence annexed to the appeal, the court proceeds on the basis of §§ 97–103 of this Code.

## **§ 129. Concluding the stage of examination of the case under appeal**

(1) After the entirety of the evidence in the case has been examined, the district judge asks the persons participating in the trial whether they have any motions to make.

(2) The court makes an order disposing of any motions that have been made.

(3) Having disposed of the motions made, the district judge closes the stage of examination of the case under appeal and proceeds to the stage of the parties' closing arguments.

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

### **§ 130. Closing arguments at the trial of an appeal**

(1) At the stage of closing arguments, the person to speak the first is the appellant, followed by the other parties to judicial proceedings in the order determined by the court.

(2) The court may not limit the duration of closing arguments but may interrupt the party presenting their arguments if they digress from the facts established during the stage of examination of the case under appeal.

(3) When the closing arguments have been made, the district judge announces the time of pronouncing their disposition in the case.

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

### **§ 130<sup>1</sup>. Making an audio recording of the trial or hearing**

(1) An audio recording is made of the trial or hearing.

(2) A decision may be made not to record the trial – or hearing – if:

(1) it becomes evident before or during the trial or hearing that recording is technically impossible and if the court is convinced that conducting the trial or hearing without recording it is practically expedient and in line with the interests of the parties;

2) it is held outside of court premises;

3) the hearing in question has been convened for the purpose of pronouncing the court's disposition;

4) the hearing in question is a hearing before the Supreme Court.

[RT I, 31.05.2018, 2 – entry into force 01.01.2019]

### **§ 131. Record of the trial**

Following the provisions of subsections 2 and 3 of § 105 of this Code, a record is kept of the trial on the appeal.

## **Subchapter 4 Rendering Judgment**

### **§ 132. Dispositions of the district court when disposing of an appeal**

The district court may, by judgment:

1) maintain the decision of the out-of-court proceedings authority and deny the appeal;

2) set aside the decision of the out-of-court proceedings authority in full or in part and enter a new decision, provided this does not aggravate the situation of the person subject to proceedings;

3) set aside the decision of the out-of-court proceedings authority and terminate misdemeanour proceedings in the case on the grounds provided by § 29 or § 30 of this Code.

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

### **§ 133. Issues to be dealt with when disposing of an appeal**

In order to dispose of an appeal, the court ascertains:

1) whether any circumstances which, under § 29 of this Code, would preclude misdemeanour proceedings are present in the case;

2) whether the act of which the person subject to proceedings is accused actually occurred;

3) whether the act was committed by the person subject to proceedings;

4) whether the act is a misdemeanour and whether it has been attributed the correct legal designation;

5) whether the sanction for the misdemeanour was imposed by an out-of-court proceedings authority that was vested with the corresponding power;

6) whether the out-of-court proceedings authority in the case has acted in compliance with the law of misdemeanour procedure;

7) whether the sanction was imposed on the person subject to proceedings in compliance with the principles for the imposition of sanctions;

8) whether misdemeanour proceedings in the case should be terminated on the grounds provided by § 30 of this Code;

9) whether misdemeanour proceedings in the case should be terminated and a corrective measure that is applicable to minors and that is provided for by § 87 of the Penal Code should be imposed;

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

10) how – under the Compensation for Harm Caused in Offence Proceedings Act – to dispose of an application seeking compensation for harm caused in the proceedings.

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

### **§ 134. Judgment of the district court**

(1) When giving judgment in the case, the district court takes guidance from § 107 and §§ 109–111 of this Code, without prejudice to the special rules provided by subsections 2 and 3 of this section.

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

(2) The introductory part of the district court's judgment states:

- 1) the decision appealed against;
- 2) the substance of the decision made in the out-of-court proceedings, to the extent necessary for the giving of judgment in the case, and the relief sought by the appellant.

(3) The operative part of the district court's judgment states a disposition provided for by clauses 1–3 of § 132 of this Code.

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

### **§ 135. Pronouncement of a judgment or of the operative part of a judgment and explanation of the right of appeal to the Supreme Court**

(1) The judge pronounces a judgment at the time announced according to subsection 3 of § 130 of this Code.

(2) The court may issue the operative part of its judgment as a separate procedural document and explain the principal grounds for the judgment orally when pronouncing that judgment.

(3) If the person subject to proceedings is not proficient in the language of proceedings, the operative part of the judgment and the explanations of the judge are translated for them.

(4) On pronouncement of the judgment or of its operative part, the judge:

1) where only the operative part of the judgment is pronounced, announces the date on which the judgment becomes available at the court for the parties to judicial proceedings to acquaint themselves with it and on which the parties may receive a copy of it; a note concerning the announcement is made in the record of the trial or, if no record is kept, on the operative part of the judgment;

2) explains the rules for appeal against the judgment according to §§ 155 and 156 of this Code and a party's right to waive their right of appeal to the Supreme Court forthwith. A waiver is noted in the record of the trial and certified by the signature of the person who made it;

3) if a party intends to exercise their right of appeal to the Supreme Court, they must notify this to the district court in writing within seven days following pronouncement of the operative part of the judgment, except in a situation described in subsection 1<sup>1</sup> of § 156 of this Code.

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

(5) Following the provisions of § 41 of this Code, the court sends a copy of its disposition to a party who did not attend the pronouncement of the disposition.

(6) If all of the parties to proceedings waive their right of appeal to the Supreme Court following the rules laid down in clause 2 of subsection 4 of this section or if, within the time limit prescribed in clause 3 of subsection 4 of this section, none of such parties provides notification of their intention to exercise such a right of appeal, only the information provided for by §§ 109 and 111 of this Code is stated in the judgment.

(7) The judgment or the operative part of the judgment is placed in the misdemeanour file.

(8) The judgment of the district court cannot be contested under the rules for appeal to Circuit Courts of Appeal.

(9) The judgment of the district court may be contested under the rules for appeal to the Supreme Court in accordance with Subchapter 1 of Chapter 14 of this Code.

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

## **Chapter 13 PROCEDURE FOR APPEAL TO THE CIRCUIT COURT OF APPEAL**

### **Subchapter 1 Appealing to the Circuit Court of Appeal**

#### **§ 136. Right of appeal to the circuit court of appeal**

(1) The parties to judicial proceedings have a right to lodge, with the circuit court of appeal, an appeal against a judgment of the district court that has been given under subsection 1 of § 107 of this Code following trial of their misdemeanour case.

(2) A judgment that has been given by the district court under § 132 of this Code following trial of the case on appeal against a decision of the out-of-court proceedings authority cannot be appealed to the circuit court of appeal.

(3) For the purposes of proceedings on appeal to a circuit court of appeal, the party who has lodged the appeal is the appellant.

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

### **§ 137. Time limit for appeal to the circuit court of appeal**

(1) If a party to judicial proceedings intends to exercise their right of appeal to the circuit court of appeal, the party must notify this to the district court in writing within seven days following the pronouncement of the operative part of the judgment, except in a situation described 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 has, within the time limit mentioned in subsection 1 of this section, provided notification of their intention to exercise their right of appeal to the circuit court of appeal, and has not waived it, the remaining parties have that right regardless of whether they themselves have provided notification of their intention to exercise it.

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

(2) Where a party intends to exercise their right of appeal to the circuit court of appeal, or provides notification of waiving that right, the district court notifies this to the other party in writing.

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

(3) The appeal is filed with the circuit court of appeal within 15 days following the date when, in accordance with clause 1 of subsection 4 of § 113 of this Code, the judgment became available at the court for the parties to acquaint themselves with it.

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

(4) If, when disposing of the misdemeanour case, the court declared, in the operative part of its judgment, a legislative or regulatory instrument which was to be applied in the case to be contrary to the Constitution and decided not to apply the instrument, the appeal is filed within ten days following pronouncement of the disposition rendered by the Supreme Court under the procedure for constitutional review concerning that instrument.

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

(5) On an application of the appellant, the court may reinstate the time limit for appeal to the circuit court of appeal by an order if it finds that the time limit was allowed to expire for a valid reason. Reinstatement may be applied for within 14 days following the day on which the impediment ceased to operate.

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

(6) Reinstatement of the time limit for appeal to the circuit court of appeal is disposed of by an order of the circuit court of appeal that is not subject to further appeal.

(7) An order by which the time limit for appeal to the circuit court of appeal is reinstated or by which reinstatement is refused is notified to the appellant.

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

### **§ 138. Instructing the district court to send over the misdemeanour file and a right of the parties to acquaint themselves with the file**

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

(1) On receiving an appeal, a circuit court of appeal, without delay, instructs the district court that conducted proceedings in the case to send the misdemeanour file over. On receiving the instruction, the district court sends the file to the circuit court of appeal without delay.

(2) The parties to judicial proceedings have a right to acquaint themselves with the misdemeanour file at the district court – until the file is sent over to the circuit court of appeal – and to copy material from the file by hand or to apply for copies to be made, for a charge, of the materials in the file.

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

### **§ 139. Appeal to the circuit court of appeal**

(1) An appeal to the circuit court of appeal is filed in writing and states:

- 1) the name of the circuit court of appeal with which it is filed;
- 2) if the appeal is filed by a natural person, their given name, surname, residential address, telephone number and email address;
- 3) if the appeal is filed by a legal person, their name and registry code and, where they are a foreign legal entity, the combination of numbers or letters equivalent to a registry code, and the address of their seat, their telephone number and email address;

- 4) if the person who filed the appeal has a defence counsel, the given name and surname of the counsel and the address of their seat, their telephone number and email address;
- 5) the name of the district court whose judgment is being 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 – in whose respect the judgment is contested;
- 7) the part of the judgment that is contested;
- 8) the substance of and reasons for the relief sought by the appellant;
- 9) the persons to be summoned to the hearing on a motion of the appellant, and the evidence that the appellant considers necessary to verify.

(2) In their appeal to the circuit court of appeal, the appellant may rely on:

- 1) the evidence examined in the district court;
- 2) any evidence concerning which the motion for its examination was denied by the district court;
- 3) any evidence that was not offered in the district court, provided that reasons are also stated which prevented such evidence from being offered earlier. If the appellant makes a motion to examine a witness who was already examined in the district court, they must state the reasons why the repeat examination of the witness has particular significance and pay the costs related to summoning that witness.

(3) In their appeal to the circuit court of appeal, the appellant must state:

- 1) whether they intend to attend the hearing to be held in the case;
- 2) if they do not have a defence counsel, whether they wish that one took part in proceedings.

(4) The appeal to the circuit court of appeal is filed together with copies of the appeal according to the number of the parties to judicial proceedings.

(5) The appeal to the circuit court of appeal is signed by the person who lodges it. If the appeal is signed by the defence counsel, their power of attorney is annexed to the appeal, unless it already appears in the misdemeanour file.

(6) The following are annexed to an appeal lodged with the circuit court of appeal:

- 1) the evidence to support the appeal;
- 2) the names and addresses of the witnesses whose examination the appellant moves for;
- 3) any other documents considered necessary by the appellant.

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

#### **§ 140. Notification of an appeal lodged with the circuit court of appeal**

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

(1) The circuit court of appeal sends copies of an appeal to the parties to judicial proceedings within three days following its receipt.

(2) The parties have a right to:

- 1) acquaint themselves with the misdemeanour file at the circuit court of appeal and copy material from any written evidence in the file by hand from in the file as well as apply to the court's office for copies to be made of such evidence for a charge;
- 2) file written objections to the appeal with the circuit court of appeal until the beginning of the hearing convened in the case.

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

## **Subchapter 2 Preliminary Proceedings in the Circuit Court of Appeal**

#### **§ 141. Operations of preliminary proceedings in the circuit court of appeal**

(1) In preliminary proceedings, the circuit judge:

- 1) verifies the right of appeal, the time limit for appeal to the circuit court of appeal and compliance of with the requirements concerning appeals according to §§ 136, 137 and 139 of this Code;
- 2) provisionally refuses to consider the appeal on the ground provided by subsection 1 of § 142 of this Code;
- 3) dismisses the appeal on the ground provided by subsection 2 of § 142 of this Code;
- 4) under the provisions of § 143 of this Code, remands the misdemeanour case to the district court for retrial;
- 5) terminates misdemeanour proceedings in the case on the ground provided by subsection 1 of § 144 of this Code;
- 6) disposes of the case by written procedure in accordance with § 145 of this Code.

(2) If the appeal is not disposed of following clauses 2–6 of subsection 1 of this section, the judge identifies the persons to be summoned to the hearing to be held in the case, the scope of the hearing according to the appeal, and the evidence to be examined, disposes of any motions made in the appeal, summons the parties to judicial proceedings to the hearing in accordance with §§ 40 and 41 of this Code, and schedules the case for hearing in accordance with § 121 of this Code.

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

#### **§ 142. Provisional refusal to consider, and dismissal of, the appeal**

(1) If an appeal lodged with the circuit court of appeal does not conform to the requirements of § 139 of this Code, the circuit court judge makes an order by which they provisionally refuse to consider the appeal and set a time limit for the appellant for cure its defects.

(2) The circuit court judge makes an order dismissing the appeal and sends a copy of the order to the appellant, also returning the appeal to them, if:

1) the appeal has been filed after expiry of the time limit provided by subsection 3 of § 137 of this Code and no application for reinstatement of the time limit has been filed or the judge has decided not to reinstate it;

2) the appeal is filed by a person who, according to subsection 1 of § 136 of this Code does not have a right to file an appeal;

3) the judgment against which the appeal is filed is not one prescribed in subsection 1 of § 136 of this Code;

3<sup>1</sup>) within the time limit prescribed in clause 3 of subsection 4 of § 113 of this Code, the appellant has not notified the district court in writing of their intention to exercise their right of appeal, unless such notification was not mandatory;

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

4) the appellant has not cured the defects found in the appeal within the time limit granted in accordance with the rule provided by subsection 1 of this section;

5) the appeal has been abandoned before the beginning of the hearing convened in the case.

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

#### **§ 143. Setting aside a judgment in preliminary proceedings on ascertaining that a material violation of the law of misdemeanour procedure has occurred; remanding the misdemeanour case to the district court for retrial**

(1) If the circuit court judge ascertains that a material violation of the law of misdemeanour procedure has occurred, they may set aside the judgment of the district court by an order based solely on the appeal, without convening a hearing and without summoning the parties, and remand the misdemeanour case to the district court for retrial by another panel.

(2) Within three days following the making of the order mentioned in subsection 1 of this section, a copy of the order has to be handed – against signed acknowledgement of receipt – or sent to the party whose interests the order affects.

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

#### **§ 144. Termination of misdemeanour proceedings where circumstances precluding such proceedings are present**

(1) If the circuit court judge finds that misdemeanour proceedings have not been terminated although circumstances that preclude such proceedings under § 29 of this Code are present, they may set aside the judgment of the district court by an order without convening a hearing or summoning the parties, and, based solely on the appeal, terminate misdemeanour proceedings in the case.

(2) A copy of the order mentioned in subsection 1 of this section is sent to the party to proceedings, and may be obtained by any non-party whose interests it concerns.

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

#### **§ 145. Disposing of a case by written procedure**

(1) A circuit court judge may dispose of an appeal by written procedure without convening a hearing and enter a disposition in accordance with the provisions of § 153 of this Code if the court has sent a copy of the appeal to the other party to judicial proceedings and ascertained their position concerning the appeal, and the parties have, in the appeal or in the response to the appeal, provided notification that they do not intend to attend the hearing of the case.

(2) The position of the other party does not need to be ascertained following the rules provided by subsection 1 of this section if the circuit court of appeal makes the disposition mentioned in clause 1 of subsection 1 of § 151 of this Code.

(3) If, during written procedure, the circuit court of appeal finds that the case should be disposed of at a hearing, the court schedules a hearing in the case.



(4) If a party offers new evidence to the circuit court of appeal together with the appeal and the court accepts such evidence, the case may be disposed of by written procedure only if the parties do not move for a hearing to be held for examining the evidence.

## **Subchapter 3**

### **Hearing the Case in the Circuit Court of Appeal**

#### **§ 146. Rules and time limits for hearing the case in the circuit court of appeal**

(1) When conducting the hearing of a misdemeanour case, the circuit court of appeal proceeds on the basis of §§ 97–103 and 124–131 of this Code, without prejudice to any special rules provided by this Subchapter.

(2) The circuit court of appeal hears a misdemeanour case within the scope of the appeal that has been lodged, except where it becomes evident that a material violation of the law of misdemeanour procedure has occurred or that substantive law has been applied erroneously, which has aggravated the situation of the person subject to proceedings.

(3) If it becomes evident that a material violation of the law of misdemeanour procedure has occurred or that substantive law has been applied erroneously, which has aggravated the situation of the person subject to proceedings, the circuit court of appeal extends the scope of the hearing of the misdemeanour case to all persons subject to proceedings concerning that misdemeanour regardless of whether or not a corresponding appeal has been lodged in their respect.

(4) At the hearing of the appeal, the parties to judicial proceedings do not have a right to raise matters that are beyond the scope of the appeal.

#### **§ 147. Powers of the circuit court of appeal**

(1) The circuit court of appeal may, by judgment:

- 1) decide not to vary the judgment of the district court, and deny the appeal;
- 2) decide not to vary the substance of the judgment of the district court, inserting corrections of detail;
- 3) vary the main part of the district court's judgment by removing a circumstance or circumstances presented in that part of the judgment;
- 4) set aside the judgment of the district court in its entirety or in part and enter a new judgment under the provisions of § 151 of this Code.

(2) The circuit court of appeal may, by order:

- 1) set aside the judgment of the district court on the grounds provided by § 148 of this Code and remand the misdemeanour case to the district court for retrial by another panel;
  - 2) set aside the judgment of the district court in its entirety or in part and terminate misdemeanour proceedings in the case under the provisions of § 29 or § 30 of this Code.
- [RT I 2005, 39, 308 – entry into force 01.01.2006]

#### **§ 148. Grounds for setting aside a judgment under the rules for appeal to a circuit court of appeal**

The grounds for a circuit court of appeal to set aside a judgment given in the district court are:

- 1) partiality or insufficiency of the proceedings;
- 2) erroneous application of substantive law according to § 149 of this Code;
- 3) material violation of the law of misdemeanour procedure according to § 150 of this Code;
- 4) inappropriateness of the sentence, or of any other measures ordered in the case, to the gravity of the misdemeanour or to the person subject to proceedings.

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

#### **§ 149. Erroneous application of substantive law**

Substantive law has been applied erroneously where:

- 1) a provision that should have been applied was not applied;
- 2) a provision that should not have been applied was applied.

#### **§ 150. Material violation of the law of misdemeanour procedure**

(1) A material violation of the law of misdemeanour procedure has occurred when:

- 1) in the presence of circumstances provided for by § 29 of this Code, misdemeanour proceedings have not been terminated;
- 2) the disposition in misdemeanour proceedings was made by a proceedings authority not vested by law with the power to conduct those proceedings;

- 3) the disposition has been made in respect of a person who has not been notified of the place and time of the hearing or trial in their case;
- 4) the defence counsel appointed to represent the person subject to proceedings in accordance with the rules provided by § 22 of this Code did not take part in the proceedings;
- 5) the proceedings authority has not signed the decision;
- 6) no misdemeanour investigation report has been filed in the case – if one is required under this Code;
- 7) the decision of the proceedings authority has not been substantiated – if substantiation is required under this Code;
- 8) the conclusions in the operative part of the decision or judgment of the proceedings authority do not correspond to established facts that constitute the subject matter of evidence;
- 9) the trial of the misdemeanour case was conducted in a language in which the person subject to proceedings is not proficient, without an interpreter or translator having been enlisted to assist the person;
- 10) the record of the hearing or trial held in the case has not been filed, although keeping the record is prescribed by this Code, or the record does not bear the signature of the judge or of the judicial hearing clerk.

(2) The court may also deem any other violation of the law of misdemeanour procedure to be material if such a violation has led to the entry in the case of a judgment that is unlawful or unjustifiable.

### **§ 151. Entry of a new judgment by the circuit court of appeal**

(1) The circuit court of appeal may, by judgment, based on the appeal or, where erroneous application of substantive law has been ascertained, regardless of the substance of the appeal:

- 1) set aside the judgment of the district court and terminate misdemeanour proceedings in the case on the basis of the provisions of § 29 or § 30 of this Code;
- 2) declare the person subject to proceedings not guilty of some of the misdemeanours and impose a lighter sentence, or affirm the sentence;
- 3) declare the person subject to proceedings convicted of a lesser misdemeanour and impose a lighter sentence, or affirm the sentence;
- 4) set aside the sentencing part of the judgment of the district court and impose a lighter sentence on the person subject to proceedings.

(2) If the circuit court of appeal ascertains that a provision of substantive law has been erroneously applied, the court must consider the misdemeanour case also with regard to the other persons subject to proceedings in that case regardless of whether or not they have lodged an appeal.

(3) On an appeal by the out-of-court proceedings authority, the circuit court of appeal may:

- 1) declare the person subject to proceedings convicted of a more serious misdemeanour than the misdemeanour of which the person was convicted by the district court and impose a more severe sentence, or decide not to vary the sentence;
- 2) set aside the judgment of the district court concerning termination of misdemeanour proceedings in the case and enter a judgment of conviction;
- 3) set aside the judgment of the district court with respect to the sentence imposed and impose a more severe sentence on the person.

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

### **§ 152. Remanding the misdemeanour case to the district court for a retrial**

If a material violation of the law of misdemeanour procedure is ascertained in the course of the hearing of the case in the circuit court of appeal and the violation is such as to force the judgment of the district court to be set aside, the circuit court of appeal makes an order by which it sets aside the judgment of the district court and remands the misdemeanour case to that court for a retrial by another panel.

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

### **§ 153. Judgment of the circuit court of appeal**

(1) When giving judgment, the circuit court of appeal follows § 107 and §§ 109–111 of this Code, without prejudice to the special rules provided by subsections 2–4 of this section.

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

(2) The introductory part of a judgment of the circuit court of appeal states:

- 1) the judgment appealed against;
- 2) the substance of the appealed part of the district court's judgment, and the relief sought by the appellant.

(3) The operative part of the judgment of the circuit court of appeal states the conclusions of the court according to the provisions of §§ 147 and 151 of this Code.

(4) If the circuit court of appeal decides not to vary the judgment of the district court under clause 1 or 2 of subsection 1 of § 147 of this Code:

- 1) it is not required to repeat in its judgment the facts stated in the main part of the judgment of the district court but, if necessary, may add its own substantiation;
- 2) it may limit its judgment to the introductory part, the operative part and the provisions of procedural law that served as the basis for the judgment.

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

**§ 154. The circuit court of appeal – pronouncing a judgment or the operative part of a judgment; explanation of the right of appeal to the Supreme Court**

(1) Having heard the closing arguments, the circuit court of appeal announces the hour at or day on which its disposition will be available at the court for the parties to judicial proceedings.

(2) Pronouncement of a judgment of the circuit court of appeal or of its operative part is subject to the provisions of subsections 2–7 of § 135 of this Code.

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

## **Chapter 14 PROCEDURE FOR APPEAL TO THE SUPREME COURT**

### **Subchapter 1 Appeal to the Supreme Court**

**§ 155. Right of appeal to the Supreme Court**

(1) The following persons have a right to lodge an appeal with the Supreme Court under the provisions of § 157 of this Code:

- 1) against a judgment of the district court rendered under the provisions of § 132 of this Code – a party to judicial proceedings;
- 2) a party, if the right of appeal to the circuit court of appeal has been exercised against them;
- 3) the parties, if the circuit court of appeal has entered one of the judgments mentioned in subsection 1 of § 147 of this Code.

(2) The right to lodge an appeal with the Supreme Court is to be exercised by the defence counsel of the person subject to proceedings – provided the counsel is an attorney – or by the out-of-court proceedings authority or a representative of that authority, provided the representative is an attorney.

(3) For the purposes of appeal proceedings before the Supreme Court, the appellant is the out-of-court proceedings authority that lodged the appeal or the attorney who represents the party that lodged the appeal.

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

**§ 156. Time limit for appeal to the Supreme Court**

(1) If a party to judicial proceedings intends to exercise their right of appeal to the Supreme Court, the party must notify this in writing to the district court or the circuit court of appeal within seven days following pronouncement of the operative part of the judgment, except in a situation described 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 has, within the time limit mentioned in subsection 1 of this section, provided notification of their intention to exercise their right of appeal to the Supreme Court, and has not waived it, the remaining parties to such proceedings have the right of appeal to the Supreme Court regardless of whether or not they themselves have provided notification of the intention to exercise that right.

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

(2) Where a party intends to exercise their right of appeal to the Supreme Court, or provides notification of waiving the exercise of that right, this is notified to the other party in writing respectively by the district court or the circuit court of appeal.

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

(3) The appeal to the Supreme Court is filed with the Court in writing within 30 days following public proclamation of the judgment.

[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, when disposing of a misdemeanour case, a district court or a circuit court of appeal declares, in the operative part of its judgment, a legislative or regulatory instrument to be applied in the case to be contrary to the Constitution and refuses to apply such an instrument, the time limit for filing an appeal to the Supreme

Court starts to run from pronouncement, by the Supreme Court under constitutional review procedure, of its disposition concerning the instrument.

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

(4<sup>2</sup>) The running of the time limit for appeal to the Supreme Court is suspended when an application for legal aid is filed. If such an application has been filed, the running of the time limit resumes when the order disposing the application is made.

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

(5) If the time limit for appeal has been breached, the Supreme Court makes an order by which it returns the appeal without having considered it.

(6) On an application of the appellant, the Supreme Court may reinstate the time limit for appeal if the Court finds that the time limit was allowed to expire for a valid reason. Reinstatement may be applied for within 14 days following the day when the impediment ceased to operate.

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

(6<sup>1</sup>) Reinstatement of, or refusal to reinstate, the time limit is rendered in the form of an order of the Supreme Court.

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

### **§ 157. Grounds for appeal to the Supreme Court**

The grounds for appeal to the Supreme Court are:

- 1) erroneous application of substantive law according to § 149 of this Code;
- 2) material violation of the law of misdemeanour procedure according to § 150 of this Code.

### **§ 158. Appeal to the Supreme Court**

(1) An appeal to the Supreme Court is drawn up as a typed or word-processed document. An electronic copy is annexed to the typed or word-processed appeal.

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

(2) An appeal to the Supreme Court states:

- 1) the given name and surname of the appellant and the address of their location, their telephone number and email address;
- 2) the name of the district court or the circuit court of appeal that entered the disposition that is being contested, and the number and date of the disposition;
- 3) the given name and surname, or name, of the party to judicial proceedings in whose interests the appeal is filed, and their residential address or the address of their seat, and their telephone number and email address;
- 4) the evidence which was previously examined in court and which the appellant relies on to show that substantive law has been erroneously applied or that a material violation of the law of misdemeanour procedure has occurred;
- 5) any additional documents which the appellant considers necessary to offer in proceedings before the Supreme Court in order to establish a material violation of the law of misdemeanour procedure;
- 6) the substance of and reasons for the relief sought by the appellant, the grounds for the appeal according to § 157 of this Code and a reference to the relevant provisions of substantive law or of the law of misdemeanour procedure and to any provisions of substantive law or of the law of misdemeanour procedure which have been violated;
- 7) a list of the documents annexed to the appeal.
- 8) the reasons why the appellant considers oral procedure to be required, if the appellant moves for such a procedure.

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

(3) The following must be annexed to an appeal to the Supreme Court:

- 1) the power of attorney of the appellant, unless it already appears in the file;
- 2) copies of the appeal for the parties.

(4) The appellant signs the appeal and states, on the appeal, the date on which it is made.

(5) The appellant may amend and supplement their appeal until the end of the time limit for lodging the appeal, and may also extend the appeal to parts of the judgment that were initially not appealed against. Any amendments to the appeal are subject to the provisions governing appeals to the Supreme Court.

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

### **§ 159. Instructing the district court or circuit court of appeal to send over the misdemeanour file; the right of the parties to acquaint themselves with the file**

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

(1) On receiving an appeal to the Supreme Court, the Court, without delay, instructs the district court or the circuit court of appeal that conducted proceedings in the case to send the misdemeanour file over. On receiving

the instruction to send the misdemeanour file over, the district court or the circuit court of appeal sends the file to the Supreme Court without delay.

(2) The parties to judicial proceedings have a right to acquaint themselves with the misdemeanour file at the district court or at the circuit court of appeal until the file is sent over to the Supreme Court.

(3) After the end of proceedings on the appeal, the Supreme Court returns the court file to the court that tried the case.

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

## **Subchapter 2**

### **Preliminary Proceedings in the Supreme Court**

#### **§ 160. Acceptance of an appeal to the Supreme Court**

(1) On receiving an appeal to the Supreme Court that conforms to the requirements, the Court sends a copy of the appeal to the party to judicial proceedings whose interests the appeal affects and notifies the following to that party:

- 1) the time of reception of the appeal at the Court;
- 2) the obligation of the party to respond to the appeal within the time limit set by the Court;
- 3) the particulars that their response must contain.

(2) The Supreme Court may require a party to state their position concerning a specific issue.

(3) Within a reasonable period following expiry of the time limit set for responding to the appeal to the Supreme Court, the Court, based on the misdemeanour file and without summoning the parties to proceedings, decides to accept the appeal or refuses to accept it.

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

(4) If an appeal to the Supreme Court is manifestly justified or manifestly unjustified, its acceptance may be decided on without sending it to the other parties or before expiry of the time limit mentioned in subsection 3 of this section.

(5) An appeal to the Supreme Court is accepted if:

- 1) the arguments presented in the appeal give reason to believe that the lower court has applied substantive law erroneously or has materially violated the law of misdemeanour procedure;
- 2) the appeal contests the correctness of application of substantive law or seeks the lower court's judgment to be set aside due to a material violation of the law of misdemeanour procedure, and a judgment of the Supreme Court is essential for uniform application or development of the law.

(6) The Supreme Court's acceptance of, or refusal to accept, an appeal is rendered in the form of an order of the Court without stating its reasons.

(7) The outcome of disposing of an application to accept an appeal to the Supreme Court is published on the website of the Court without delay, stating the number of the case and the legal designation of the misdemeanour considered in the misdemeanour investigation report. Where an application to accept an appeal to the Supreme Court was filed under the rules for proceedings closed to the public, only the outcome of its disposition and the number of the case together with a reference to the fact that proceedings were closed to the public are disseminated on the website. A refusal of acceptance on the ground that the appeal did not conform to the requirements provided by law and was therefore returned is not published on the website. The particulars concerning the disposition of the application for acceptance of an appeal to the Supreme Court are removed from the website when 30 days have elapsed from their publication.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(8) Where an appeal to the Supreme Court is rejected, it is included in the misdemeanour file together with the order rejecting that appeal, and the file is returned to the district court. If the appeal is rejected, the grounds for rejecting it are indicated in the order. A copy of the order is sent to the person subject to proceedings if they do not have a defence counsel in judicial proceedings.

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

(9) When it accepts an appeal to the Supreme Court, the Court may suspend, entirely or in part, enforcement of the judgment given in the case by the district court, on considering the appeal against the decision made in the out-of-court proceedings, or of the judgment given by the circuit court of appeal.

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

### **§ 160<sup>1</sup>. Provisional refusal to consider an appeal to the Supreme Court**

Where an appeal to the Supreme Court shows a defect that prevents its consideration by the Court, and it is manifest that the defect can be cured, the Court makes an order by which it sets the appellant a reasonable time limit to cure that defect and, for the time being, provisionally refuses to consider the appeal.

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

### **§ 161. Dismissing an appeal to the Supreme Court**

The Supreme Court makes an order by which it dismisses the appeal if:

- 1) the appeal is filed after expiry of the time limit provided by § 156 of this Code and no application for reinstatement of the time limit has been made or the Supreme Court has not reinstated the time limit;
- 2) the appeal has been filed by a person for whom it is not possible, under subsection 3 of § 155 of this Code, to appear in the proceedings as the appellant;
- 3) the appellant has not cured the defects shown by the appeal within the time limit that was set, and has not given reasons for not curing those defects;
- 4) within the time limit prescribed in clause 3 of subsection 4 of § 135 of this Code, the appellant has not notified the district court or the circuit court of appeal in writing of their intention to exercise their right of appeal to the Supreme Court – unless notification is not mandatory;

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

- 5) the appeal has been abandoned before the beginning of the hearing in the case.

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

### **§ 162. Notification of appeal to the Supreme Court**

[Repealed – RT I, 23.02.2011, 1 – entry into force 01.09.2011]

### **§ 163. Parties' right to acquaint themselves with the appeal to the Supreme Court**

The parties to judicial proceedings have a right, to be exercised by an attorney representing the party, to acquaint themselves, at the Supreme Court, with the misdemeanour file and with the appeal to the Court, as well as a right to make copies at their expense of the appeal and of any documents contained in the file, as well as a right, to be exercised by an attorney representing the party, to file a response to the appeal with the Court.

### **§ 164. Response to an appeal to the Supreme Court**

(1) A response to an appeal to the Supreme Court is filed as a typed or word-processed document and states:

- 1) the Supreme Court as the addressee;
- 2) if the party to judicial proceedings in whose interests the response to the appeal is filed is a natural person, their given name, surname, residential address, telephone number and e-mail address;
- 3) if the party in whose interests the response to the appeal is filed is a legal person, their name and the address of their seat, their telephone number and email address;
- 4) if the response to the appeal is filed in the interests of the out-of-court proceedings authority, the name, address, telephone number and email address of the authority;
- 5) the judgment appealed against, its date and the number of the misdemeanour case;
- 6) whether the appeal is deemed appropriate or is contested;
- 7) substantiated objections to the relief sought by the appeal, as well as the facts and a reference to the statutory provision on which the party relies in their reasons.
- 8) the reasons why an oral procedure is required, if the respondent makes a motion for such a procedure.

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

(2) A response to an appeal to the Supreme Court is signed by the out-of-court proceedings authority or by an attorney who represents the party filing the response.

(3) If this is needed, the Supreme Court may require a party to file a response to the appeal.

[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]**

## **Subchapter 3 Consideration of Misdemeanour Cases by the Supreme Court**

### **§ 166. Rules for consideration of misdemeanour cases under the rules for appeal to the Supreme Court**

(1) As a rule, the Supreme Court considers a misdemeanour case by written procedure. Under that procedure, the Supreme Court sets a time limit during which the parties to judicial proceedings may make submissions to the court and the time at which its judgment will be publicly proclaimed, and notifies these to such parties. If a copy of the appeal to the Supreme Court has not been sent to the parties in accordance with the rules provided by subsection 1 of § 160 of this Code, it is appended to the corresponding notice.

(2) A misdemeanour case is considered by oral procedure if the Supreme Court deems this necessary. When the Supreme Court considers, by oral procedure, an appeal that has been lodged with the Court, it sends summonses to the parties to judicial proceedings. Unless the Supreme Court rules otherwise, the non-appearance at the hearing of a party who has received the summons does not prevent the case from being considered.

(3) A party has a right to acquaint themselves with the court file at the Supreme Court and to 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>. Making a request to the European Court of Human Rights**

(1) In accordance with Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms, the Supreme Court may, in a case pending before it, request the European Court of Human Rights to give an advisory opinion on a question 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 in any of the Protocols to that Convention.

(2) The request has to state its reasons and include a description of the relevant factual and legal circumstances of the pending case.

(3) The advisory opinion of the European Court of Human Rights is not binding on the Supreme Court.

(4) If the Supreme Court requests the European Court of Human Rights to give an advisory opinion on an issue that has arisen in the case, the Supreme Court may suspend its proceedings for the time that it takes for proceedings to be conducted in relation to the request.

(5) The Supreme Court resumes the proceedings that were suspended under subsection 4 of this section on reception of an advisory opinion concerning the request, on learning of the request having been denied or on having abandoned the request. The Supreme Court may also resume the proceedings earlier if proceedings concerning the request mentioned in subsection 1 of this section are delayed disproportionately.

(6) If proceedings are suspended, the running of the procedural time limit provided by subsection 5 of § 176 of the Code of Misdemeanour Procedure is interrupted and, when the suspension ceases, that time limit starts to run again in its entirety.

(7) Translation of the request into the English or the French language and translation, into the Estonian language, of the disposition of the European Court of Human Rights received with regard to the request that was made is 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 applied from of the day on which Protocol No. 16 to the European Convention on the Protection of Human Rights and Fundamental Freedoms enters into force in respect of Estonia.]

### **§ 167. Referral of a misdemeanour case for consideration by the full panel of the Criminal Chamber of the Supreme Court**

(1) If, when considering a misdemeanour case, fundamentally different opinions arise regarding application of the relevant statute in a three-member panel of the Criminal Chamber of the Supreme Court or if there is reason to believe that it may be necessary to amend an opinion stated regarding the application of the statute in an earlier disposition of the Criminal Chamber, the misdemeanour case is referred, by a corresponding order, for consideration to the full panel of the Criminal Chamber which must be made up of at least five justices of the Supreme Court.

(2) When a misdemeanour case is considered by the full panel of the Criminal Chamber, the presiding judge is the chairman of the Criminal Chamber or, in their absence, the longest-serving member of the Criminal Chamber or, if several members have an equal length of service, the member who is senior in age.

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

### **§ 168. Referral of a misdemeanour case for consideration to the Special Panel of the Supreme Court**

(1) If the Criminal Chamber of the Supreme Court, when considering a misdemeanour case, finds that its interpretation of the relevant statute requires that an opinion stated by another Chamber or by the Special Panel in their latest disposition be varied, or if this is necessary for ensuring uniform application of the law, the Chamber, by a corresponding order, refers the case for consideration to the Special Panel of the Supreme Court.

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

(2) The Special Panel of the Supreme Court is convened by the Chief Justice of the Supreme Court based on a corresponding order of the full panel of the Criminal Chamber.

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

(3) The members of the 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 the chamber of the Supreme Court whose opinion concerning the application of the statute is contested by the Criminal Chamber.

(4) At the hearing before the Special Panel, the case is presented by a member of the Criminal Chamber.

#### **§ 169. Referral of a misdemeanour case for consideration to the Supreme Court *en banc***

(1) By a corresponding order, a misdemeanour case is referred for consideration to the Supreme Court *en banc* if the full panel of the Criminal Chamber finds it necessary:

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

1) to vary the opinion concerning application of the relevant statute as stated in the latest disposition of the Supreme Court *en banc* or of the Special Panel of the Supreme Court, or  
2) that, for uniform application of the law, the power to deal with the case be vested in the Supreme Court *en banc*.

(2) The panel considering a misdemeanour case refers the case to the Supreme Court *en banc* if disposing of the case requires resolution of an issue subject to consideration under the Constitutional Review Procedure Act.

#### **§ 170. Lead-in stage of a hearing before the Supreme Court**

(1) The justice presiding over the hearing:

1) opens the hearing and announces the misdemeanour case to be considered and the person based on whose appeal to the Supreme Court the case is to be considered;  
2) ascertains whether the appellant, the out-of-court proceedings authority and the attorneys representing any other parties to judicial proceedings are in attendance at the hearing, and verifies the authority of the representatives;  
3) ensures the participation of an interpreter or translator, if this is needed;  
4) announces the names of the justices making up the panel and the names of the appellant, of the out-of-court proceedings authority and of the attorneys representing any other parties, and asks whether they wish to make any recusal motions or any other motions or applications;  
5) asks the appellant whether they intend to proceed with the appeal or to abandon it.

(2) Abandonment of the appeal is certified by the appellant's signing of a corresponding note on the appeal.

(3) Any motions or applications that have been made are disposed of by an order.

(4) If, after completion of the lead-in stage of the hearing, circumstances preventing consideration of the misdemeanour case are revealed, the court adjourns its consideration of the case by an order.

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

#### **§ 171. Abandoning an appeal lodged with the Supreme Court**

(1) The appellant may abandon their appeal in part or in full before the Supreme Court withdraws from the courtroom to consider its judgment or, if the case is dealt with by written procedure, until expiry of the time limit set for the parties to judicial proceedings to make their submissions.

(2) The out-of-court proceedings authority or the person subject to proceedings has a right, by a corresponding motion, to abandon the appeal lodged with the Supreme Court by the attorney representing or defending them, except in a situation in which, under subsection 3 of § 19 of this Code, participation of a defence counsel in misdemeanour proceedings is mandatory.

(3) If the appellant has abandoned the appeal they have lodged with the Supreme Court, the appeal is dismissed by a corresponding order and proceedings before the Supreme Court are terminated with regard to that appeal.

(4) If the Supreme Court ascertains that the district court or the circuit court of appeal that disposed of the misdemeanour case has erroneously applied substantive law, which has aggravated the situation of the offender, or that a material violation of the law of misdemeanour procedure has occurred, consideration of the misdemeanour case may be continued even though the appeal that was lodged with the Supreme Court has been abandoned.

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

#### **§ 172. Presentation of materials of the misdemeanour case**

(1) When the lead-in stage of the hearing has been completed, the presiding justice or a member of the Court presents the materials of the misdemeanour case.

(2) The presenting justice concisely states:

1) the facts of the misdemeanour case;  
2) the substance of and reasons for the appeal to the Supreme Court;



- 3) the relief sought by the appellant;
- 4) any explanations and objections that have been stated in the response to the appeal.

### **§ 173. Hearing of submissions of the appellant and of the other parties to judicial proceedings, and closing the hearing of the case**

(1) After the materials of the misdemeanour case have been presented, the Court hears the submissions of the appellant, of the out-of-court proceedings authority and of the attorneys representing any other parties, if they are in attendance at the hearing, starting with the appellant.  
[RT I 2003, 83, 557 – entry into force 01.01.2004]

(2) The Court has a right to put questions to the appellant, to the out-of-court proceedings authority and to the attorneys representing any other parties.  
[RT I 2003, 83, 557 – entry into force 01.01.2004]

(3) The presiding justice has a right to interrupt the person being questioned if they digress beyond the scope of the appeal.

(4) After the persons to be questioned have been heard, the presiding justice closes the hearing and announces the time when the appellant and the other parties may, at the office of the Criminal Chamber, acquaint themselves with the judgment of the Supreme Court. The judgment is published on the Court's website.  
[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 the Supreme Court**

(1) To ensure that the parties are able to exercise their right to be heard, the Supreme Court has a right, during the entirety of proceedings on appeal to the Court, to put written questions to the parties to judicial proceedings. Such questions are signed by a member of the panel considering the case. The questions are accompanied by a note setting out the time limit for responding to them, which must not be shorter than one week.

(2) A response to written questions of the Court is drawn up as a typed or word-processed document. The response is signed by the party to whom the questions were addressed.  
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

### **§ 173<sup>2</sup>. Scope of consideration of the misdemeanour case under the rules for appeal to the Supreme Court**

(1) The misdemeanour case is considered having regard to the scope of the appeal lodged with the Supreme Court. During consideration of the case, the appellant does not have a right to raise matters beyond the scope of their appeal. The provision in the first sentence of this subsection does not preclude or restrict the appellant's right to make submissions concerning interpretation of the law and to file objections to any submissions made by another party to judicial proceedings.

(2) The Supreme Court is not bound by the legal reasoning of an appeal lodged with it.

(3) If it turns out that substantive law has been applied erroneously, which has aggravated the situation of the person subject to proceedings, or a material violation of the law of misdemeanour procedure has occurred, the Supreme Court extends the scope of its consideration of the misdemeanour case to all persons subject to proceedings and to all misdemeanours they are accused of regardless of whether an appeal has been lodged with the Court in their respect.  
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

### **§ 174. Powers of the Supreme Court**

The Supreme Court may, by judgment:

- 1) affirm a judgment given by the district court on consideration of an appeal filed against a decision made in out-of-court proceedings, or a judgment of the circuit court of appeal, and deny the appeal lodged with the Court;
- 2) substantively affirm a judgment given by the district court on consideration of an appeal filed against a decision made in out-of-court proceedings, or a judgment of the circuit court of appeal, inserting corrections of detail;
- 3) vary the main part of a judgment given by the district court on consideration of an appeal filed against a decision made in out-of-court proceedings, or a judgment of the circuit court of appeal, by removing a circumstance or circumstances presented in that part of the judgment;

4) set aside a judgment given by the district court on consideration of an appeal filed against a decision made in out-of-court proceedings, or a judgment of the circuit court of appeal, and terminate misdemeanour proceedings in the case by a judgment of the Supreme Court under the provisions of § 29 or § 30 of this Code;

5) set aside a judgment of the circuit court of appeal and affirm the judgment of the district court;

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

6) set aside the disposition of the district court and reinstate the decision of the out-of-court proceedings authority;

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

7) set aside, in its entirety or in part, a judgment given by the district court on consideration of an appeal filed against a decision made in out-of-court proceedings, or a judgment of the circuit court of appeal, and remand the misdemeanour case for retrial or for a new hearing to the court that applied substantive law erroneously or that materially violated the law of misdemeanour procedure;

8) set aside, in its entirety or in part, a judgment given by the district court on consideration of an appeal filed against a decision made in out-of-court proceedings, or a judgment of the circuit court of appeal and, without collecting any additional evidence, enter 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 setting aside a judgment under the rules for appeal to the Supreme Court**

Under the rules for appeal to the Supreme Court, the grounds for setting aside a judgment are:

- 1) erroneous application of substantive law according to § 149 of this Code;
- 2) material violation of the law of misdemeanour procedure according to § 150 of this Code.

### **§ 176. Judgment of the Supreme Court**

(1) The introductory part of the Supreme Court's judgment states:

- 1) the number of the case;
- 2) the date of the Court's judgment;
- 3) the composition of the panel dealing with the case;
- 4) the name of the case being considered;
- 5) the contested disposition;
- 6) the date of consideration of the case;
- 7) whether the case was considered by written or oral procedure;
- 8) the given name and surname of the appellant, of the representatives of the other parties to judicial proceedings and of any interpreters or translators who took part in appeal proceedings before the Supreme Court;

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

(2) The main part of the Supreme Court's judgment states:

- 1) a summary of previous judicial proceedings in the case;
- 2) the part of the judgment that the appellant contests, and the relief sought by the appellant;
- 3) any explanations and objections submitted in the response to the appeal lodged with the Court;
- 4) the submissions made during the hearing of the case by the appellant, by the out-of-court proceedings authority and by the attorneys representing the other parties;
- 5) the substantiation for the conclusions of the Supreme Court;
- 6) the legal basis for the conclusions of the Supreme Court.

(3) The operative part of the Supreme Court's judgment states the Court's conclusions.

(4) If the Supreme Court affirms a judgment of the district court or of the circuit court of appeal in accordance with clause 1 of subsection 2 of § 174 of this Code:

- 1) it is not required to repeat in its judgment the facts stated in the main part of the judgment of the district court or of the circuit court of appeal, but may add its own reasons;
- 2) it may limit its judgment to the introductory part, the operative part and the provisions of the procedural law that served as the basis for the judgment.

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

(5) The judgment of the Supreme Court must be accessible at the Court's office at the latest when 30 days have elapsed following the hearing of the case by the Court or, where the case is dealt with by written procedure, following the due date set by the Court to the parties for filing their submissions. If necessary, the corresponding time limit may be extended by an order for up to 60 days.

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

### **§ 177. Entry into effect of a disposition of the Supreme Court**

A disposition of the Supreme Court enters into effect on the day on which it is publicly proclaimed and is not subject to further appeal.

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

### **§ 178. Binding force of a judgment of the Supreme Court**

(1) The opinion stated in a judgment of the Supreme Court concerning application of the law is binding for:

1) the district court or the circuit court of appeal, when dealing with the misdemeanour case in which the judgment was given;

2) the Supreme Court, without prejudice to the special rules provided by §§ 167–169 of this Code.

(2) A judgment of the Special Panel of the Supreme Court concerning application of the law is binding for the Chambers of the Court until it is varied by the Special Panel or by the Supreme Court *en banc*.

(3) A judgment of the Supreme Court *en banc* is binding for the Court's Chambers and for any composition of its Special Panel until it is varied by the Supreme Court *en banc* itself.

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

## **Chapter 15**

# **PROCEEDINGS FOR REVIEW OF JUDICIAL DISPOSITIONS THAT HAVE ENTERED INTO EFFECT**

### **§ 179. Definition of proceedings for review of a judicial disposition that has entered into effect**

(1) Proceedings for review of a judicial disposition that has entered into effect (subsequently referred to as 'review' in the translation of this Chapter) mean consideration, by the Supreme Court, of an application for review of such a disposition in order to decide on the re-opening of proceedings in the misdemeanour case in which the disposition was made.

(2) A misdemeanour case in which a judicial disposition has entered into effect and in which the re-opening of proceedings is sought is referred to as the case under 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 the judgment or court order given in the misdemeanour case under review, which is due to the false testimony of a witness, to a knowingly wrong expert opinion, to a knowingly false interpretation or translation, to the falsification of documents or to the fabrication of evidence as ascertained in another criminal or misdemeanour case by a judgment that has entered into effect;

2) commission, by the judge, during the trial or hearing of the misdemeanour case under review or in the course of trying or considering an appeal filed against the decision made in out-of-court proceedings in the case, of a criminal offence, which has been ascertained by a judgment that has entered into effect;

3) the commission, by the out-of-court proceedings authority in the misdemeanour case under review, of a criminal offence, which has been ascertained by a judgment that has entered into effect, provided the offence may have had an impact on the judgment rendered in the case;

4) the setting aside of a judgment or court order which was one of the grounds for the rendering of the judgment or court order in the misdemeanour case under review, provided this may lead to proceedings being terminated in the case due to certain elements of the misdemeanour not being present in the act concerned, or to mitigation of the situation of the offender;

4<sup>1</sup>) the granting of an individual application filed with the European Court of Human Rights regarding the judgment or court order in the misdemeanour case under review due to a violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms or of a Protocol to that Convention, provided the violation may have influenced the process of disposing of the case and it is not possible to eliminate it or compensate for the harm caused by it otherwise than by review;

5) any other fact that is essential for justly disposing of the misdemeanour case under review and which the court was not aware of when rendering its judgment or order in the case and which independently or together with the facts previously established may lead to proceedings being terminated in the case due to certain elements of the misdemeanour not being present in the act concerned, or to mitigation of the situation of the offender.

6) [Repealed – RT I 2003, 83, 557 – entry into force 01.01.2004]

### **§ 181. Right to file an application for review**

(1) The right to file an application for review is vested in the parties to judicial proceedings in the case.

(2) In relation to the ground provided by clause 4<sup>1</sup> of § 180 of this Code, the right to file an application for review is vested in the defence counsel – who is an attorney – of the person who filed the individual application with the European Court of Human Rights as well as the defence counsel – who is an attorney – of a person who has filed an individual application with the European Court of Human Rights in a similar case and on the same legal basis, or of a person who has a right to file such an application in a similar case and on the same legal

basis, having regard to the time limit provided by paragraph 1 of Article 35 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. Time limits for filing an application for review**

An application for review may be filed:

- 1) on the grounds prescribed in clauses 1–4<sup>1</sup> of § 180 of this Code, within six months following the entry into effect of the judgment;
- 2) on the ground prescribed in clause 4 of § 180 of this Code, within six months following the entry into effect of the court order;
- 3) on the ground prescribed in clause 5 of § 180 of this Code, within three months following the revelation of the new fact;
- 4) on the ground prescribed in clause 6 of § 180 of this Code, within three months following the revelation of such other fact.

[RT I 2006, 48, 360 – entry into force 18.11.2006]

### **§ 183. Application for review**

(1) An application for review, to be lodged with the Criminal Chamber of the Supreme Court, is drawn up as a typed or word-processed document.

(2) An application for review states:

- 1) the applicant's position title, given name, surname and address;
- 2) the name of the out-of-court proceedings authority or of the court whose disposition is the subject of the application, and the date of that disposition;
- 3) the name of the misdemeanour case under review;
- 4) the given name and surname of the person who has been declared the offender in the misdemeanour case and with regard to whom review is sought in the case;
- 5) the grounds for review according to § 180 of this Code;
- 6) a list of the documents annexed to the application.

(3) If an application for review is filed by the out-of-court proceedings authority or by an attorney, a document certifying the authority of the person filing the application is annexed to the application.

(4) If review of the misdemeanour case is applied for under the provisions of clauses 1–4<sup>1</sup> of § 180 of this Code, a copy of the court order or judgment on which the application for review relies is annexed to the application.

(5) An application for review is signed, and the date on which it was made is noted on it, by the person who files the application.

[RT I 2006, 48, 360 – entry into force 18.11.2006]

### **§ 184. Acceptance of the application for review**

(1) Acting under § 160 of this Code, the Supreme Court decides on acceptance of the application for review within one month following expiry of the time limit for responding to the application. When it accepts the application, the Supreme Court may, if this is needed, suspend the enforcement of the judgment rendered in the misdemeanour case under review in part or in full.

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

(2) If the application for review does not conform to the requirements provided by § 183 of this Code, the Supreme Court sets a time limit for its defects to be cured.

(3) The application for review is rejected if:

- 1) the Supreme Court finds that the application does not state the grounds for review;
- 2) the Supreme Court has previously rejected an application for review that was filed on the same grounds;
- 3) on the grounds in question, review of the judicial disposition has already been refused.

[RT I 2006, 48, 360 – entry into force 18.11.2006]

### **§ 185. Provisional refusal to consider the application for review**

The Supreme Court makes an order by which it provisionally refuses to consider the application seeking review if:

- 1) the application was made after expiry of the time limit provided by § 182 of this Code and the applicant has not made an application for reinstatement of the time limit or the Court has not reinstated it;
- 2) the application has been made by a person who under § 181 of this Code does not have a right to do so;
- 3) the application does not conform to the requirements of § 183 of this Code and the applicant has not cured its defects within the time limit set by the Court.

### **§ 186. Rules for review**

The review is conducted following the provisions of §§ 166–173, 176 and 177 of this Code.

### **§ 187. Powers of the Supreme Court under the rules for review**

If the application for review is justified, the Supreme Court, by its judgment, sets aside the contested judicial disposition and remands the misdemeanour case to the court that decided it for retrial or for a new hearing.

### **§ 188. Proceedings in the district court or the circuit court of appeal following review of a misdemeanour case**

(1) Following review of a misdemeanour case, proceedings in the district court or the circuit court of appeal in that case are conducted in accordance with regular procedure.

(2) Proceedings may be terminated without carrying out an examination of the case if:

- 1) the offender is dead;
- 2) the facts are clear and the out-of-court proceedings authority has not made a motion for retrial or for a new hearing.

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

## **Chapter 16 PROCEDURE FOR DISPOSING OF INTERIM APPEALS**

### **§ 189. Scope of availability of interim appeals**

An interim appeal may be filed against an order made in proceedings before a court of the first or second instance or in enforcement proceedings if contestation of the order is not ruled out under section 191 of this Code.

### **§ 190. Right to file an interim appeal**

A party as well as any non-party has a right to file an interim appeal against a court order that interferes with their rights or lawful interests, or with those of a defended person.

### **§ 191. Court orders not subject to contestation under the rules for disposing of interim appeals**

No interim appeal lies against the following court orders:

- 1) orders limiting public access to a trial or hearing;
- 2) orders transferring a misdemeanour case to the court that has jurisdiction over the case;
- 3) orders of recusal and orders denying the recusal motions;
- 4) [Repealed – RT I 2006, 21, 160 – entry into force 25.05.2006]
- 5) orders adjourning trial in the case;
- 6) orders of joinder or severance of misdemeanour cases;
- 7) orders disposing of a party's motion;
- 8) orders on collection of additional evidence during judicial proceedings;
- 9) orders commissioning an expert assessment;
- 10) orders of provisional refusal to consider an appeal under the procedure for appeal to the district court or orders of provisional refusal to consider an appeal to the circuit court of appeal;
- 11) orders scheduling the misdemeanour case for trial or hearing;
- 12) court orders made under § 79 of this Code to dispose of an appeal against the actions of an out-of-court proceedings authority, except for court orders made concerning confiscation in the course of misdemeanour proceedings.

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

### **§ 192. Interim appeal and the rules for filing an interim appeal**

(1) An interim appeal is filed with the court that gave the contested order, unless otherwise provided for by 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 interim appeal against an order of the circuit court of appeal is filed with the Supreme Court.

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

(2) An interim appeal is filed in writing and states:

- 1) the name of the court with whom the appeal is filed;
- 2) the name and procedural role of the appellant and the address of their residence or seat;
- 3) the name of the court that made the contested order, the date of the order and the name of the party in whose respect the order is contested;
- 4) the part of the order that is contested;

- 5) the substance of and reasons for the relief sought in the appeal;
- 6) a list of the documents annexed to the appeal.

(3) An interim appeal is signed and the date on which it is made is noted on the appeal by the appellant.

(4) An interim appeal is included in the misdemeanour file.

#### **§ 193. Time limit for filing an interim appeal**

(1) A party may file an interim appeal within 15 days following the date on which the contested order was made. If the order was made by written procedure, a party may file the interim appeal within 15 days following the date on which they became or should have become aware of the order to be contested.

(2) A non-party may file an interim appeal within 15 days following the date on which they became or should have become aware of the order to be contested.

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

#### **§ 194. Rules for consideration of an interim appeal**

(1) An interim appeal is considered within the scope of the appeal and in respect of the person concerning whom it is filed.

(2) An interim appeal is considered by written procedure without the participation of the parties.

(3) An interim appeal is considered following the provisions of Chapters 11–14 of this Code without prejudice to any special rules provided by this Chapter.

#### **§ 195. Consideration of an interim appeal at the court that made the contested order**

(1) The court that made the order considers an interim appeal within five days following its receipt.

(2) If the panel that made the contested order finds the interim appeal justified, the panel makes an order by which it revokes the contested order and, if necessary, makes a new order. Revocation of the contested order and the making of a new order are notified to the appellant without delay.

(3) If the panel that made the contested order finds the interim appeal unjustified, the panel transmits the contested order and the interim appeal without delay to the court that has jurisdiction to deal with the appeal.

#### **§ 196. Consideration of an interim appeal at the higher court**

(1) The higher court considers an interim appeal within ten days following its receipt.

(2) An interim appeal against an order made by a district court judge is considered by a circuit court judge sitting alone.

(3) An interim appeal against an order of the circuit court of appeal is considered by a three-member panel of the Criminal Chamber of the Supreme Court.

(4) The Supreme Court decides on acceptance of an interim appeal against an order of the circuit court of appeal following the provisions of § 160 of this Code. The Supreme Court accepts an interim appeal against an order made by the circuit court of appeal concerning an interim appeal against a lower-instance judicial disposition only if the disposition of the Supreme Court in the matter is essential for uniform application or development of the law.

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

#### **§ 197. Suspension of enforcement of the contested order**

The court that receives an interim appeal may suspend the enforcement of the contested order.

#### **§ 198. Finality of a court order made on consideration of an interim appeal**

A court order made on consideration of an interim appeal is final and not subject to further appeal.

## **Chapter 17** **ENTRY INTO EFFECT AND MANDATING** **THE ENFORCEMENT OF A DISPOSITION**

### **Subchapter 1**

## General Provisions

### **§ 199. Entry into effect of a decision or order made in out-of-court proceedings and of a judgment or court order**

(1) A decision made in out-of-court proceedings enters into effect if no appeal has been filed against it and the time limit for appealing the decision has expired.

(2) A judgment or court order enters into effect when it is not possible to contest it other than by proceedings for review of a judicial disposition that has entered into effect, except in situations provided for by subsections 3 and 4 of this section.

(2<sup>1</sup>) If the time limit for filing an appeal against a decision made in out-of-court proceedings or against a judgment or court order is reinstated, the decision, judgment or order is deemed not to have entered into effect. [RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(3) A judgment imposing a short-term custodial sentence enters into effect at the time it is given.

(4) An order made by a court in written procedure enters into effect at the time it is made.

(5) An order made in out-of-court proceedings enters into effect at the time it is made. [RT I 2003, 26, 156 – entry into force 21.03.2003]

### **§ 200. Binding force of decisions and orders of out-of-court proceedings authorities and of judgments and court orders**

Any decision or order of an out-of-court proceedings authority as well as any judgment or court order which has entered into effect has binding force in respect of all persons in the territory of the Republic of Estonia.

### **§ 201. Permissibility of enforcement of decisions and orders of out-of-court proceedings authorities and of judgments and court orders**

(1) Enforcement of a decision or order made by an out-of-court proceedings authority or of a judgment or court order is mandated when the relevant disposition has entered into effect and its enforcement has not been deferred under § 209 of this Code.

(2) If an appeal is filed with the district court against a decision of an out-of-court proceedings authority, or an appeal to the circuit court of appeal or an appeal to the Supreme Court is lodged against a judgment with regard to only one of the persons subject to proceedings, enforcement of the decision or judgment is mandated with regard to the other persons subject to those proceedings. [RT I 2005, 39, 308 – entry into force 01.01.2006]

### **§ 202. Proceedings authority to mandate enforcement of decisions and orders made by the out-of-court proceedings authority and of judgments and court orders**

(1) Enforcement of a decision or order that was rendered by an out-of-court proceedings authority and that has entered into effect is mandated by the authority that entered the respective out-of-court disposition in the case.

(1<sup>1</sup>) Enforcement of a decision of the Defence Resources Agency on the imposition of a fine is mandated by the Tax and Customs Board when the decision has entered into effect. [RT I, 20.02.2024, 1 – entry into force 01.05.2024]

(2) Enforcement of a judgment or order that was rendered by a court of first instance and that has entered into effect is mandated by the district court that entered the respective judicial disposition in the case.

(3) Enforcement of the judgment rendered by the district court under the rules for appeal against out-of-court decisions, or by the Supreme Court under the rules for appeal to that Court – when such a judgment has entered into effect – is mandated by the out-of-court proceedings authority that entered the first disposition in the misdemeanour case.

(4) Enforcement of a disposition that was rendered by the circuit court of appeal or the Supreme Court and that has entered into effect is mandated by the district court that entered the first judicial disposition in the misdemeanour case.

(5) In a situation provided for by subsection 2 of § 204 of this Code, enforcement of the judicial disposition is mandated by the authority designated by administrative decree of the Minister in charge of the policy sector.

[RT I, 29.06.2014, 109 – entry into force 01.07.2014, the words "the Minister of Finance" substituted with the words "the Minister in charge of the policy sector" on the basis of subsection 4 of § 107<sup>3</sup> of the Government of the Republic Act.]

### **§ 203. Time limit for mandating the enforcement of a decision or order of the out-of-court proceedings authority and of a judgment or court order**

(1) Enforcement of a judgment by which the person subject to proceedings is released from serving their short-term custodial sentence is mandated without delay upon pronouncement of the operative part of such a judgment.

(2) Enforcement of a decision of an out-of-court proceedings authority, or of a judgment, by which a sanction is imposed on the offender is mandated as of the day on which the decision or judgment entered into effect or within ten days counted from the day on which the misdemeanour case was returned from the circuit court of appeal or from the Supreme Court. Special rules for mandating enforcement of a decision of an out-of-court proceedings authority, or of a judgment, by which the offender was ordered to pay a fine are provided by § 204 of this Code.

[RT I, 11.03.2023 – entry into force 01.11.2023]

(3) Enforcement of a judgment by which a short-term custodial sentence is imposed is mandated following the rules provided by § 205 of this Code.

(4) Enforcement of an order made by an out-of-court proceedings authority or by a court is mandated as of its entry into effect.

(5) No disposition may be mandated for enforcement when the time limit provided by clause 3 of subsection 1 of § 82 of the Penal Code has expired and enforcement of the decision made by the out-of-court proceedings authority or of the judgment has not been deferred.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

## **Subchapter 2 Mandating the Enforcement of Dispositions**

### **§ 204. Mandating the enforcement of a fine imposed by a decision made by the out-of-court proceedings authority or by the judgment given in the case**

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

(1) A decision made by an out-of-court proceedings authority by which the authority has imposed a fine is deemed to have been complied with and its enforcement is not mandated if:

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

1) the offender has paid the fine in full within 45 days following reception of the decision made by the authority under expedited procedure in accordance with subsection 2 of § 55 of this Code or, if the fine is to be paid in parts, pays those parts by their due dates;

[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

2) the offender has paid the fine in full within 45 days following the day on which the decision made by the authority under regular procedure in accordance with clause 1 of subsection 1 of § 73 of this Code became available for the parties to proceedings on the authority's premises or, if the fine is to be paid in parts, pays those parts by their due dates;

[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

3) the fine imposed by a decision whose enforcement, under subsections 1 and 1<sup>1</sup> of § 202 of this Code, is mandated by the Tax and Customs Board has been set off by the Board in full in accordance with the rules provided by the Taxation Act before expiry of the time limit for mandating its enforcement.

[RT I, 20.02.2024, 1 – entry into force 01.05.2024]

(2) A judgment which imposes a fine and which has entered into effect is sent to the authority that has been appointed by administrative decree of the Minister in charge of the policy sector to verify whether or not the offender has paid the fine in full. Such a judgment is deemed to have been complied with and its enforcement is not mandated if the Tax and Customs Board, before expiry of the time limit for mandating its enforcement, has set off the fine in full in accordance with the rules provided by the Taxation Act.

[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 in charge of the policy sector" on the basis of subsection 4 of § 107<sup>3</sup> of the Government of the Republic Act.]

(3) If the offender has not paid the fine in full within the time limit provided by clause 1 or clause 2 of subsection 1 of this section or within 45 days counted from the day when the judgment was made available for the parties to judicial proceedings at the court to acquaint themselves with it or, if their fine is to be paid in parts, or does not observe the due dates for payment of a fine that is to be paid in parts, the authority that is to mandate the enforcement of the disposition under § 202 of this Code sends to the enforcement agent, within ten days, a copy of the disposition on which a note has been made concerning its entry into effect.



[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

(4) A decision whose enforcement, under § 202 of this Code, is to be mandated by the Tax and Customs Board is enforced in accordance with the rules provided by the Taxation Act.

[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

#### **§ 204<sup>1</sup>. Recognition and enforcement of a fine imposed in a foreign state in a misdemeanour case by decision of an out-of-court proceedings authority or by judgment**

Unless otherwise prescribed by international agreements of the Republic of Estonia or by generally recognised principles of international law, the provisions of criminal procedure concerning recognition and enforcement of foreign judgments apply to recognition and enforcement of a fine imposed in a foreign state in a misdemeanour case by decision of an out-of-court proceedings authority or by judgment, having regard to the conversion of fines into short-term custodial sentences as provided for by § 72 of the Penal Code.

[RT I 2008, 33, 201 – entry into force 28.07.2008]

#### **§ 204<sup>2</sup>. Requesting a Member State of the European Union to enforce a fine imposed in a misdemeanour case by decision of an out-of-court proceedings authority or by judgment**

Estonia may request that a Member State of the European Union enforce a fine imposed on a person in a misdemeanour case by decision of an out-of-court proceedings authority or by judgment. The provisions of the Code of Criminal Procedure concerning requests for the recognition and enforcement of judgments of Estonian courts apply to requests for enforcement of decisions imposing a fine.

[RT I 2008, 33, 201 – entry into force 28.07.2008]

#### **§ 204<sup>3</sup>. Mandating the enforcement of withdrawal of a right to drive a vehicle**

To mandate the enforcement of withdrawal of a right to drive a vehicle imposed as the principal or as an ancillary sanction, the judgment or the decision of the out-of-court proceedings authority is sent to the relevant authority, to withdraw from the offender the rights described in the disposition and to take custody of the documents issued to the offender for the exercise of such rights.

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

#### **§ 205. Mandating the enforcement of a short-term custodial sentence**

(1) If the enforcement of a judgment imposing a short-term custodial sentence has not been deferred in accordance with § 209 of this Code and the offender was arrested for the duration of judicial proceedings, the district judge who is to mandate enforcement of the judgment mandates such enforcement without delay upon the giving of the judgment. A copy of the judgment bearing a note certifying the judgment's entry into effect is sent to the jail or prison that serves the service area of the court which gave the judgment or the locality in which the offender – including reservists and persons in active service – has their residence or, where a short-term custodial sentence has been imposed on a conscript, is sent to the Defence Forces.

[RT I, 03.03.2021, 1 – entry into force 04.03.2021]

(2) If enforcement of a judgment has not been deferred in accordance with § 209 of this Code and the offender was not arrested for the duration of judicial proceedings, the district court that is to mandate enforcement of the disposition sends an order to the offender, setting out when and to which jail or prison the offender must report to serve their sentence. A copy of the order and a copy of the judgment bearing a note concerning its date of entry into effect is sent to the jail or prison at which the offender is to serve their sentence.

[RT I, 03.03.2021, 1 – entry into force 04.03.2021]

(3) In a situation provided for by subsection 2 of this section, the serving of the short-term custodial sentence is deemed to commence when the offender reports to the jail or prison.

[RT I, 03.03.2021, 1 – entry into force 04.03.2021]

(4) If the offender does not report to the jail or prison at the prescribed time to serve their short-term custodial sentence, the jail or prison notifies this to the court that mandated enforcement of the sentence. In such a case, the district court makes an order directing the offender to be forcibly brought in to the jail or prison.

[RT I, 03.03.2021, 1 – entry into force 04.03.2021]

#### **§ 206. Rules for handing over confiscated property**

[RT I, 31.12.2016, 2 – entry into force 01.02.2017]

(1) Unless otherwise provided by law, the proceedings authority to enforce a judicial disposition or a decision of an out-of-court proceedings authority sends the following documents to the agency authorised to administer confiscated property:

- 1) a copy of the judgment or court order or the disposition or order of the out-of-court proceedings authority which bears a note certifying its entry into effect;
- 2) a copy of the procedural document dealing with confiscated property.

(2) The costs of the transfer and destruction of confiscated property are paid by the offender.

(3) The rules for the handing over of confiscated property and for returning, from the budget to the lawful possessor of the property, any monies received on account of its alienation are enacted by a regulation of the Government of the Republic.

[RT I, 31.12.2016, 2 – entry into force 01.02.2017]

#### **§ 207. Mandating the enforcement of costs of the case and of other financial claims awarded by decision of an out-of-court proceedings authority and by judgment**

Enforcement of the costs of the case and other financial claims awarded by decision of an out-of-court proceedings authority or by judgment is ordered in accordance with the rules provided by §§ 201, 203 and 204 of this Code.

#### **§ 207<sup>1</sup>. Mandating the enforcement of, and performance, of community service**

(1) To mandate the enforcement of a sentence imposing community service, the judicial disposition which has entered into effect is sent to the Probation Supervision Department that serves the locality of the offender's residence.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

(2) The head of the Probation Supervision Department that has received the judicial disposition designates an official and tasks them with supervising the performance of the community service order by the offender.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

(3) The rules for preparation and performance of as well as supervision over the community service to be carried out are enacted by a regulation of the Minister in charge of the policy sector.

[RT I 2010, 44, 258 – entry into force 01.01.2012]

### **Subchapter 3 Return of Objects in Misdemeanour Proceedings**

#### **§ 208. Return of objects**

(1) Where documents or property items have been seized from a person with regard to whom misdemeanour proceedings have been terminated, or where items of the person's property have been attached, the district court that is to mandate enforcement of the judgment sends the disposition, when it has entered into effect, to the relevant authority in order for the attachment to be released, or for the documents or property items to be returned to their owner or lawful possessor.

[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

(2) Where documents or property items have been seized from a person with regard to whom misdemeanour proceedings have been terminated, or where items of the person's property have been attached, the out-of-court proceedings authority that is to order enforcement of the decision returns the items that were seized to their owner or lawful possessor, releases the attachment on the items, or sends the disposition, when it has entered into effect, to the relevant authority for the documents or items to be returned to their owner or lawful possessor.

[RT I, 11.03.2023, 1 – entry into force 01.11.2023]

(3) The return of a document certifying an entitlement is decided by the issuing authority on the grounds and in accordance with the rules prescribed by law.

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

### **Subchapter 4 Resolution of Issues Arising in the Course of Enforcement of Dispositions of Out-of-Court Proceedings Authorities or of Judicial Dispositions**

#### **§ 209. Deferral of mandating the enforcement of a fine or short-term custodial sentence imposed as sanction for a misdemeanour**

(1) If circumstances are present that render it impossible to carry out, without delay, a short-term custodial sentence imposed as a sanction for the misdemeanour, the district court that is to mandate enforcement of the

relevant disposition may, on a motion of the offender, make an order by which it defers the carrying out of the sentence, and state in that order the date of commencement and the end date of the deferral.

(2) If circumstances are present which render it impossible to collect, without delay, the fine imposed as a sanction for the misdemeanour, the district court or the out-of-court proceedings authority that is to mandate enforcement of the relevant disposition may, on a motion or application of the offender, make an order by which they defer mandating the enforcement of the fine and state in that order the date of commencement and the end date of the deferral.

(3) On deferral of mandating the enforcement of a short-term custodial sentence, enforcement of the relevant disposition is mandated in accordance with the rules provided by subsections 2–4 of § 205 of this Code without delay after the end date of the deferral. A copy of the order by which such a sentence was deferred is sent to the jail or prison together with a copy of the disposition.

[RT I, 03.03.2021, 1 – entry into force 04.03.2021]

(4) On deferral of mandating the enforcement of a fine mentioned in subsection 2 of this section, enforcement of the relevant disposition is mandated without delay after the end date of the deferral. A copy of the order by which enforcement of the fine was deferred is sent to the enforcement agent together with a copy of the disposition bearing a note certifying its date of entry into effect.

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

#### **§ 210. Extension of the time limit for enforcement of a fine imposed as a sanction for a misdemeanour**

[Repealed – RT I 2004, 46, 329 – entry into force 01.07.2004]

#### **§ 210<sup>1</sup>. Resolution of issues arising in the course of performance of community service**

(1) If an offender evades the carrying out of their community service, the probation officer who ascertains such a violation files a motion with the court to mandate enforcement of the short-term custodial sentence imposed on the offender.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

(2) Within ten days following reception, at the court, of the motion of the probation officer, the judge in charge of enforcement matters at the district court that serves the locality of the offender's residence makes an order by which they decide on the setting aside of the community service and, in accordance with subsection 6 of § 69 of the Penal Code, on mandating the enforcement of the short-term custodial sentence imposed on the offender by the judgment entered in their case.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

#### **§ 210<sup>2</sup>. Notification of performance of community service**

When the number of hours of community service that was imposed on the offender has been performed, the probation officer transmits a corresponding notification to the Criminal Records Database within the time limit and in accordance with the rules provided by the Criminal Records Database Act.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

#### **§ 210<sup>3</sup>. Requests for ceasing or suspension of community service**

(1) If an offender evades the carrying out of the community service imposed on them, the probation officer who ascertains such a violation files a motion with the court, in which they state the particulars concerning the circumstances of the violation, the number of hours of community service that has been performed, a summary of the explanation – if any – provided by the offender and a proposal to discontinue the community service and to mandate the enforcement of the short-term custodial sentence.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

(2) If it is not possible for an offender to perform the community service imposed on them due to an illness or a family situation or for the reason that they are performing their mandatory active service obligation or are participating in a training exercise, the probation officer files a motion with the court to suspend the running of the term of the offender's community service. The motion must contain information concerning the grounds for the suspension and a proposal concerning the time during which the suspension would apply. When suspending the term and when setting a new term, the court has to consider the overall limit applicable to the term of community service provided for in relation to the offence that was committed.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

#### **§ 210<sup>4</sup>. Assignment of community service enforcement work**

(1) The Minister in charge of the policy sector may, in accordance with the rules provided by the Administrative Cooperation Act and on the basis of an administrative contract, assign a proportion of community service enforcement work in the area served by the Probation Supervision Department to a suitable municipality or non-profit association that has expressed the corresponding wish. The authority to file a motion for ceasing the community service provided for by § 210<sup>3</sup> of this Code must not be delegated.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

(2) Supervision over the work of the municipality or non-profit association in enforcing community service is performed by the Head of the Probation Supervision Department of the relevant district and by the Minister in charge of the policy sector.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

(3) The Head of the Probation Supervision Department and the Minister in charge of the policy sector may give mandatory instructions to the municipality or non-profit association concerning enforcement of community service. In the event of unsatisfactory enforcement of community service or of failure to comply with mandatory instructions, the Minister in charge of the policy sector may terminate the administrative contract in accordance with the rules stipulated in that contract.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

#### **§ 211. Converting a fine imposed as a sanction for a misdemeanour into a short-term custodial sentence or into community service; mandating enforcement of the sanction**

[RT I 2010, 44, 258 – entry into force 01.01.2012]

(1) If an offender has not paid their fine in full within the prescribed time limit – or, if their fine is to be paid in instalments, the time limits for the payment of such instalments are not complied with – the time limit for payment of the fine has not been extended and the offender does not have any property against which the relevant enforcement claim could be collected, the district court, based on a motion of the offender, makes an order by which it converts the fine into a short-term custodial sentence or into a term of community service in accordance with § 72 of the Penal Code.

[RT I 2010, 44, 258 – entry into force 01.01.2012]

(1<sup>1</sup>) The district court disposes of converting a fine into a short-term custodial sentence or into a term of community service with the offender in attendance. On a motion of the offender, their defence counsel is summoned to the court and the counsel's opinion heard.

[RT I 2010, 44, 258 – entry into force 01.01.2012]

(2) Where the fine has been paid in part, the part which has been paid is taken into consideration, in proportion to the amount that has been paid, when determining the duration of the short-term custodial sentence imposed in lieu of the fine or the duration of the community service.

[RT I 2010, 44, 258 – entry into force 01.01.2012]

(3) If, for some reason, conversion of a fine into a short-term custodial sentence in lieu of the fine, or into a term of community service, is not possible or if the offender pays the fine before the imposition of such a sentence or order, the district court makes an order by which it denies the motion, of the party seeking collection, to convert the fine into a short-term custodial sentence or into a term of community service.

[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

(4) The court sends a copy of the order mentioned in subsection 1 or subsection 3 of this section to the party seeking collection, to the enforcement agent and to the offender.

[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

#### **§ 212. Resolution of issues arising in the course of enforcement of a disposition of an out-of-court proceedings authority or of a judicial disposition**

(1) Issues not regulated by this Chapter and any other doubts and ambiguities arising in the course of enforcement of a disposition of an out-of-court proceedings authority or of a judicial disposition are resolved by the court or the out-of-court proceedings authority that made the disposition, or by the out-of-court proceedings authority or district judge who mandated the enforcement of the disposition, by an order made by written procedure without summoning the parties to proceedings.

(2) A copy of the order is sent to the enforcement agent and to the party to proceedings whom the order concerns.

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

#### **§ 212<sup>1</sup>. Receipts of cautionary and fixed penalties**

[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

Cautionary and fixed penalties are charged to the State budget. If the out-of-court proceedings authority who gave the cautionary or fixed penalty is the executive of a rural or urban municipality, the penalty is charged to the budget of the municipality that made the corresponding decision.  
[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

## **Chapter 18**

### **IMPLEMENTING PROVISIONS**

#### **§ 212<sup>2</sup>. Limitation period for enforcement of decisions of the Police and Border Guard Board which entered into effect before 2010**

The period for enforcement of a decision made by the Police and Border Guard Board which imposes a fine and requires payment of the costs of the case and which entered into force before 2010 is deemed to expire on 1 January 2018.

[RT I, 30.12.2017, 2 – entry into force 09.01.2018]

#### **§ 212<sup>3</sup>. Handing over enforcement of community service**

A judgment or court order which sanctions the offender by imposing on them a period of community service and whose enforcement was mandated until 1 January 2017 and which has not been enforced or has been enforced in part is sent to the 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>. Special rule for implementing § 166<sup>1</sup>**

Section 166<sup>1</sup> of this Code is implemented as of the day of entry into force in respect of Estonia of Protocol no. 16 to the European Convention on the Protection of Human Rights and Fundamental Freedoms.

[RT I, 26.06.2017, 17 – entry into force 06.07.2017]

#### **§ 212<sup>5</sup>. Special rule for applying Subchapter 1<sup>2</sup> of Chapter 10 of this Code**

Subchapter 1<sup>2</sup> of Chapter 10 of this Code does not apply to misdemeanour proceedings which were commenced before the entry into force of that Subchapter.

[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

#### **§ 212<sup>6</sup>. Special rules concerning calculation of amounts of fines**

The fine unit of 8 euro provided by subsection 1 of § 47 of the Penal Code as the basis for calculation of fines does not apply in respect of a misdemeanour committed before 1 January 2025.

[RT I, 29.06.2024, 1 – entry into force 01.01.2025]

**§ 213.–§ 216.**[Omitted from this text.]

#### **§ 217. Entry into force of this Code**

The Code of Misdemeanour Procedure enters into force together with the Penal Code.