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Code of Criminal Procedure Implementation Act

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RT I 2004, 46, 329

Entry into force 01.07.2004, partially according to § 26.

Amended by the following acts

Passed	Published	Entry into force
28.06.2004	RT I 2004, 54, 387	01.07.2004
23.03.2005	RT I 2005, 20, 127	24.04.2005
11.06.2008	RT I 2008, 28, 180	15.07.2008
19.06.2008	RT I 2008, 32, 198	15.07.2008
27.01.2011	RT I, 23.02.2011, 1	01.09.2011
17.02.2011	RT I, 21.03.2011, 2	01.01.2012 Repealed[RT I, 29.06.2012, 2]
08.12.2011	RT I, 22.12.2011, 3	23.12.2011 Repealed[RT I, 29.06.2012, 2]
06.06.2012	RT I, 29.06.2012, 2	09.07.2012, partially 01.01.2013, 01.01.2014 and 01.01.2015
20.03.2014	RT I, 26.03.2014, 7	21.09.2014 - Judgment of Constitutional Review Chamber of Supreme Court declares to be in conflict with the Constitution and repeals as of entry into force of this judgement subsection 25 ¹ (2) of the Code of Criminal Procedure Implementation Act to the extent in which it does not prescribe an efficient control system over continued justification for non-notification of surveillance activities conducted subject to surveillance authorisations which expired before 1 January 2013.
12.06.2014	RT I, 21.06.2014, 11	01.07.2014, partially 01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the titles of ministers replaced on the basis of subsection 107 ³ (4) of the Government of the Republic Act in the wording in force as of 1 July 2014.
09.12.2014	RT I, 22.12.2014, 9	01.01.2015
18.02.2015	RT I, 06.03.2015, 22	16.03.2015
17.12.2015	RT I, 06.01.2016, 5	16.01.2016, partially 01.01.2017
10.05.2017	RT I, 26.05.2017, 1	05.06.2017
07.06.2017	RT I, 26.06.2017, 17	06.07.2017
14.06.2017	RT I, 26.06.2017, 70	06.07.2017

Chapter 1

GENERAL PROVISIONS

§ 1. Implementation of Code of Criminal Procedure in pre-trial proceedings

(1) Procedural acts and surveillance activities commenced prior to entry into force of the Code of Criminal Procedure (*kriminaalmenetluse seadustik*) shall be completed in compliance with the Criminal Procedure Code (*kriminaalmenetluse koodeks*) and Surveillance Act, except in the cases provided for in subsection (2) of this section.

(2) Pre-trial criminal proceedings shall be completed by the Prosecutor's Office in compliance with the procedure provided for in §§ 223 to 227 of the Code of Criminal Procedure. In criminal proceedings where the accused has a counsel and which are sent to the Prosecutor's Office pursuant to § 176 of the Criminal Procedure Code, the acts provided for in §§ 224 to 225 of the Code of Criminal Procedure shall not be performed, except for providing the counsel with a copy of the criminal file at his or her request.

(3) Complaints filed with an administrative court against the acts of preliminary investigators or prosecutors prior to entry into force of the Code of Criminal Procedure shall be reviewed by an administrative court pursuant to the procedure provided for in the Code of Administrative Court Procedure.

§ 2. Implementation of Code of Criminal Procedure in court proceedings

(1) Criminal matters sent to court or private charges commenced by a court prior to entry into force of the Code of Criminal Procedure shall be heard by county or city courts pursuant to the provisions of the Criminal Procedure Code.

(2) If no criminal proceedings were commenced in private charges on the basis of an application for the commencement of criminal proceedings submitted to a court prior to entry into force of the Code of Criminal Procedure, the court shall send the application for a decision on the commencement of criminal proceedings to the Prosecutor's Office of the place of commission of the criminal offence. The bail paid upon submission of the application shall be refunded.

(3) Applications, complaints or appeals filed prior to entry into force of the Code of Criminal Procedure shall be adjudicated by a circuit court or the Supreme Court pursuant to the provisions of the Code of Criminal Court Appeal and Cassation Procedure.

§ 2¹. Implementation of § 268¹ of Code of Criminal Procedure in court proceedings

(1) § 268¹ of the Code of Criminal Procedure shall not apply to criminal proceedings in the case of which the court had decided upon prosecuting the accused was made prior to 15 July 2008.

(2) If members of the court panel of a county court hear criminal matters in the case of which the ruling on prosecution was made prior to 15 July 2008, they may hear one more criminal matter in the case of which the ruling on prosecution was made after 15 July 2008, and other criminal matters only according to the exceptions specified in subsections 268¹(2) and (3) of this Code.
[RT I 2008, 32, 198 - entry into force 15.07.2008]

§ 2². Publication of rulings specified in §§ 202 and 203 of the Code of Criminal Procedure

Until 31 December 2009, the Prosecutor's Office shall issue the rulings specified in §§ 202 and 203 of the Code of Criminal Procedure on the basis of requests for information taking account of the requirements provided for in subsections 408¹(2) to (5), replacing the name and personal data of the suspect with the initials or characters.
[RT I 2008, 32, 198 - entry into force 15.07.2008]

§ 2³. Specifications concerning court hearing after 1 September 2011

(1) Audio recording of court sessions pursuant to general procedure and making recordings available according to subsection 156 (1) and § 156¹ of the Code of Criminal Procedure shall comply, until creation of technical conditions in courts, with the wording of the Code of Criminal Procedure in force prior to 1 September 2011. The minister responsible of the area shall establish the time, terms and conditions and procedure for transition to audio recording of court sessions by a regulation.

(2) Upon court hearing of a criminal matter in which a prosecutor submitted a criminal file to a court prior to 1 September 2011, the provisions of subsection 296 (2) of the Code of Criminal Procedure, which entered into force on 1 September 2011, shall not apply.

(3) If a judgement of a county court made in a criminal matter sent to court prior to 1 September 2011 is annulled in appellate or cassation proceedings and the criminal matter is returned to the county court for re-trial by a different court panel, the further proceedings in the matter shall comply with the provisions of subsection 296 (2) of the Code of Criminal Procedure in force.

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

§ 2⁴. Exceptional term for filing civil actions

Victims may file civil actions in criminal matters in which the Prosecutor's Office has declared pre-trial proceedings completed prior to 1 September 2011 before termination of examination by court in the county court.

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

§ 2⁵. Implementation of § 38² of Code of Criminal Procedure in court proceedings

§ 38² of the Criminal Procedure Code apply prospectively to actions which are filed after entry into force of the specified section.

[RT I, 26.05.2017, 1 - entry into force 05.06.2017]

Chapter 2 AMENDMENT OF ACTS

§ 3.–§ 18.[Omitted from this text.]

Chapter 3 REPEAL OF ACTS

§ 19.–§ 22.[Omitted from this text.]

Chapter 4 PROVISIONS DELEGATING AUTHORITY AND ENTRY INTO FORCE OF ACT

§ 23. Term of holding in custody in pre-trial proceedings

Until 1 January 2005, a preliminary investigation judge may, at the request of the Chief Public Prosecutor and in the case of particular complexity or extent of a criminal matter or in exceptional cases arising from international cooperation in criminal proceedings, extend the term of holding a person in custody in pre-trial proceedings for more than one year.

§ 24. Provisions delegating authority

(1) [Repealed - RT I 2008, 28, 180 - entry into force 15.07.2008]

(2) [Repealed - RT I 2008, 28, 180 - entry into force 15.07.2008]

(3) The Government of the Republic shall arrange the publication of the Code of Criminal Procedure, Surveillance Act and Prosecutor's Office Act in the *Riigi Teataja* within two months after entry into force of this Act.

§ 25. Language of document

Subsection 10 (3) and § 144 of the Code of Criminal Procedure may be applied until 1 January 2008 in such a manner that documents in foreign languages shall be translated at the latest by the time of sending or submission of criminal files to court or on the order of the Prosecutor's Office or if a party to a proceeding requests it in the course of pre-trial proceedings.

[RT I 2005, 20, 127 - entry into force 24.04.2005]

§ 25¹. Validity of authorisations for surveillance activities and authorisations for non-notification of surveillance activities

(1) Authorisations for surveillance activities issued until 31 December 2012 shall remain in force with respect to persons indicated therein until expiry of the term indicated therein.

(2) The provisions of subsections 126¹³(1) to (5) of the Code of Criminal Procedure apply to surveillance activities which permission term expired prior to 1 January 2013 in the cases and taking into consideration the specifications provided for in subsections (3) to (8) of this section.
[RT I, 06.03.2015, 22 - entry into force 16.03.2015]

(3) The basis for non-notification of surveillance activities conducted on the basis of a permission issued by a preliminary investigation judge since 1 July 2004, which permission term expired before 1 January 2013, shall be verified if the respective criminal matter was not sent to court by a statement of charges or agreement.
[RT I, 06.03.2015, 22 - entry into force 16.03.2015]

(4) A surveillance agency shall verify the basis for non-notification of surveillance activities specified in subsection 126¹³(2) of the Code of Criminal Procedure in the case of any person with regard to whom the surveillance activities were conducted, and with regard to any person clearly identifiable in a surveillance file whose private or family life was significantly violated by the surveillance activities. In the case of surveillance files held by a Prosecutor's Office, the verification provided for in this subsection may also be performed by the Prosecutor's Office.
[RT I, 06.03.2015, 22 - entry into force 16.03.2015]

(5) If the basis for non-notification ceases to exist, the surveillance agency shall immediately notify the person of surveillance activities.
[RT I, 06.03.2015, 22 - entry into force 16.03.2015]

(6) If the basis for non-notification of surveillance activities has not ceased to exist, the Prosecutor's Office shall apply to a preliminary investigation judge for a permission to extend the non-notification term. The preliminary investigation judge grants permission by a ruling for non-notification of the person or refuses to grant such permission. Upon non-notification of a person, the ruling shall set out whether the non-notification is granted for an unspecified or specified term. In the case of non-notification during a specified term, the term during which a person is not notified shall be set out. In the case of refusal to grant permission for extension of non-notification, the surveillance agency shall immediately notify the person of surveillance activities.
[RT I, 06.03.2015, 22 - entry into force 16.03.2015]

(7) When a person is notified of surveillance activities conducted with respect to him or her, the procedure for appeal shall be explained to him or her.
[RT I, 06.03.2015, 22 - entry into force 16.03.2015]

(8) The obligations specified in subsections (3) to (7) of this section shall be complied with at the latest by 31 December 2018.
[RT I, 06.03.2015, 22 - entry into force 16.03.2015]

§ 25². Application of provisions concerning criminal procedure in international co-operation

(1) The provisions of Subdivision 5 of Division 8 of Chapter 19 of the Code of Criminal Procedure shall apply to judgments made after 24 November 2008.

(2) The provisions of Subdivision 6 of Division 8 of Chapter 19 of the Code of Criminal Procedure shall apply to judgments made after 5 November 2011.

(3) The provisions of Subdivision 7 of Division 8 of Chapter 19 of the Code of Criminal Procedure shall apply to judgments made after 6 December 2011.
[RT I, 21.06.2014, 11 - entry into force 01.01.2015]

§ 25³. Specifications for application of Chapter 14¹ of Code of Criminal Procedure

(1) A member of the *Riigikogu*, in the case of whom criminal proceedings were commenced before the entry into force of Chapter 14¹ of the Code of Criminal Procedure, shall be subject to the regulation provided for in Chapter 14 of the Code of Criminal Procedure in force at the time of commencement of the criminal proceedings.

(2) The provisions of subsection (1) of this section shall also apply to any member of the *Riigikogu* who was not yet a member of the *Riigikogu* at the time of commencement of the criminal proceedings.
[RT I, 22.12.2014, 9 - entry into force 01.01.2015]

§ 25⁴. Requirements for civil action

The requirements of § 154¹ of the Criminal Procedure Code apply to civil actions which are filed after 1 January 2017.
[RT I, 06.01.2016, 5 - entry into force 01.01.2017]

§ 25⁵. Specifications for implementation of § 352¹ of Criminal Procedure

§ 352¹ of the Code of Criminal Procedure is implemented as of the day of entry into force of Protocol 16 to the European Convention on the Protection of Human Rights and Fundamental Freedoms in respect of Estonia.
[RT I, 26.06.2017, 17 - entry into force 06.07.2017]

§ 25⁶. Application of provisions of European Investigation Order

Subdivision 1² of Division 8 of Chapter 19 of the Code of Criminal Procedure is applied only to the member states of the European Union which have transposed Directive 2014/41/EU of the European Parliament and of the Council regarding the European Investigation Order in criminal matters (OJ L 130, 01.05.2014, pp. 1-36) into their national law.
[RT I, 26.06.2017, 70 - entry into force 06.07.2017]

§ 26. Entry into Force of Act

(1) This Act enters into force on 1 July 2004.

(2) Subsections 130 (3) and (3¹) of the Code of Criminal Procedure amended pursuant to clauses 9 55) and 56) of this Act shall enter into force on 1 January 2005.

(3) Subsection 210 (4) of the Code of Criminal Procedure added pursuant to clause 9 105) of this Act enters into force on 1 September 2005 and subsection (5) on 1 January 2005.

(3¹) Clause 9 106) of this Act shall apply to war crimes committed since 20 August 1991.

(4) Clause 13 20) of this Act enters into force on 1 January 2005.

(5) Clause 15 1) of this Act shall enter into force with respect to the Police Board, the Border Guard Board, Prisons Department of the Ministry of Justice and the prisons and the Tax and Customs Board on 1 July 2006.
[RT I 2005, 20, 127 - entry into force 24.04.2005]