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Code of Misdemeanour Procedure

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14.06.2017	RT I, 04.07.2017, 1	06.07.2017
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Chapter 1 FUNDAMENTAL PROVISIONS

§ 1. Scope of application of this Code

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

§ 2. Application of provisions on criminal procedure

Unless otherwise provided for in this Code, the provisions on 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, local authorities and legal persons in public law 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 any special rules provided by such an agreement.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

§ 3¹. Principle of mandatory misdemeanour proceedings

(1) If the elements of a misdemeanour are discovered, the body authorized to conduct the out-of-court proceedings is required to commence and conduct misdemeanour proceedings, unless that body considers the corresponding act to be of minor importance or unless circumstances are present which are set out in § 29 of this Code and which preclude misdemeanour proceedings in the case.

(2) Where the misdemeanour is of minor importance, the commencement of misdemeanour proceedings is not required and the issuing of an oral caution to the person who committed the act characterized by the elements of the misdemeanour may be deemed sufficient.

(3) Where the misdemeanour is of minor importance, the commencement of misdemeanour proceedings is not required if identification of the person who committed the misdemeanour is unlikely or if conducting the proceedings would be unreasonably expensive having regard to the circumstances of the misdemeanour.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(4) A misdemeanour is not of minor importance if damage has been caused by its commission or if the misdemeanour report cites any damage caused, except where the person who committed the misdemeanour has voluntarily compensated for or remedied such damage.
[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 judgment or determination sentencing or sanctioning them for that misdemeanour has become final.

§ 5. Safeguarding the rights of the party subject to the proceedings

The body to conduct the out-of-court proceedings, and the court, are required:

- 1) when performing a procedural operation, to explain to the party subject to the proceedings the purpose of the procedural operation and the rights and obligations of that party;
- 2) provide the person subject to the proceedings with the opportunity to defend themselves independently;
- 3) allow the defence counsel of the person subject to the proceedings to participate in the proceedings on the basis and in accordance with the rules provided in 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 body to conduct the proceedings must treat the party subject to those proceedings such that it does not harm their honour or degrade their dignity.

§ 7. Compensation for damage caused by misdemeanour

Compensation for any damage 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 **BODIES TO CONDUCT PROCEEDINGS, PARTY** **SUBJECT TO PROCEEDINGS, EXPERTS,**

INTERPRETERS OR TRANSLATORS AND PARTIES TO THE PROCEEDINGS BEFORE THE COURT UNDER MISDEMEANOUR PROCEDURE

Division 1

Bodies to Conduct Proceedings Under Misdemeanour Procedure

§ 8. Body to conduct proceedings

The body to conduct the proceedings is:

- 1) under out-of-court procedure, the body to conduct the out-of-court proceedings;
- 2) under the procedure in the courts, the court.

§ 9. Body to conduct out-of-court proceedings

Where this is provided for by statute, the body to conduct the out-of-court proceedings is:

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

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

§ 10. Officials of the body to conduct the out-of-court proceedings

(1) The body to conduct the out-of-court proceedings participates in those proceedings through its officials.

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

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

(2¹) Within the scope of procedural jurisdiction of the body to conduct the out-of-court proceedings, the head of that body may issue general directions in order to ensure the legality and efficacy of such proceedings.

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

(3) The body to conduct the out-of-court proceedings issues a certificate of authority to its officials. The certificate must set out the title, number and date of the legal instrument on which the authority of the official is based.

(3¹) Where the official of the body to conduct the out-of-court proceedings is a police officer, their service ID serves as proof of their authority.

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

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

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

§ 11. Resolution of jurisdictional disputes between bodies to conduct out-of-court proceedings

(1) If jurisdiction to conduct proceedings in a misdemeanour case is vested by statute in several bodies to conduct out-of-court proceedings, the case is to be dealt with by officials of the body which performed the first procedural operation in that case. Jurisdictional disputes between bodies to conduct out-of-court proceedings are resolved by agreement.

(2) If the bodies to conduct out-of-court proceedings fail to reach an agreement, the jurisdictional dispute is resolved without delay by a ruling of:

- 1) the relevant minister if the bodies are within the area of government of that minister;
- 2) the minister responsible for the area in situations not falling under clause 1 of this subsection.

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

(3) The body to conduct the out-of-court proceedings which, under the ruling provided for in subsection 2 of this section, does not have jurisdiction to pursue the proceedings sends the documentation concerning the misdemeanour together with a cover letter to the body that has such jurisdiction. Before transferring the misdemeanour case to the body that has jurisdiction, only urgent procedural operations are performed.

§ 12. Locality where proceedings are conducted in misdemeanour cases

(1) Under out-of-court procedure, proceedings in misdemeanour cases are conducted in the locality where the misdemeanour was committed.

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

(2) At the request of the person subject to the proceedings, proceedings in a misdemeanour case may be conducted:

- 1) in the locality where that person has their residence or seat;
- 2) in the locality of registration, in Estonia, of the relevant motor or rail vehicle or air or water craft.

(3) If, after the commencement of proceedings, the person subject to the proceedings changes their residence or seat, proceedings in the case may, at the request of that person, be conducted in the locality of their new residence or seat.

(4) The body to conduct the out-of-court proceedings resolves the requests provided for in subsections 2 and 3 of this section by making a corresponding order.

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

(5) A 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 and does not damage the interests of the person subject to the proceedings. At the request of that person, their misdemeanour case may be transferred to a body 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 is registered in Estonia.

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

§ 13. Body to conduct proceedings under procedure before the courts

Under the procedure before the courts, the body to conduct the proceedings is a district court, a circuit court of appeal or the Supreme Court.

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

§ 14. Jurisdiction

(1) The misdemeanour case or an appeal or challenge filed against a decision made in the case is dealt with by the district court in whose district the misdemeanour was committed. In situations falling under subsections 2 and 3 of § 12 of this Code, the case or an appeal filed against a determination made in the case is dealt with by the district court in whose district the residence or seat indicated in the request or the locality of registration, in Estonia, of the relevant motor or rail vehicle or air or water craft, falls.

(2) When preparing a misdemeanour case for the hearing in court, the court verifies whether it has jurisdiction over the case. If the court finds that it does not have jurisdiction, it enters an order transferring the misdemeanour case to a court that has jurisdiction. Before the case is transferred to a court that has jurisdiction, only urgent procedural operations may be performed.

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

(4) If permission from a judge is required for the performance of a procedural operation in out-of-court proceedings, such permission is granted by a judge of the district court in whose district the procedural operation is to be performed.

(5) An appeal filed under § 78 of this Code against the actions of the body to conduct the out-of-court proceedings is resolved by the district judge in whose 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 panels to deal with misdemeanour cases

(1) In district courts, misdemeanour cases and appeals filed against determinations made by bodies to conduct out-of-court proceedings are dealt with by a single district judge.

(2) In the courts of appeal, misdemeanour cases are dealt with by a panel of three judges. Preliminary procedure in misdemeanour cases are conducted by a single appeal judge.

(3) In the Supreme Court, misdemeanour cases are considered by a panel of at least three judges.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

Division 2

Party Subject to Proceedings and Parties to Proceedings Before the Court Under Misdemeanour Procedure

§ 16. Party subject to proceedings

The party subject to the proceedings means the person subject to the proceedings and their defence counsel.

§ 17. Parties to proceedings before the court

(1) In proceedings before the court, the parties to those proceedings are the party subject to the proceedings and the body to conduct the out-of-court proceedings.

(2) In the Supreme Court, the parties to proceedings before the Court are the defence counsel, who must be an advocate, of the person subject to the proceedings or of the offender, and the body to conduct the out-of-court proceedings or its representative, who must be an advocate.
[RT I 2003, 83, 557 – entry into force 01.01.2004]

§ 18. Person subject to the proceedings and the offender

(1) The person subject to the 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]

(1¹) The following are not deemed to be persons subject to proceedings:
1) the vehicle's owner or authorized user to whom a notice of fine is sent under written caution procedure;
2) persons subjected to the abridged procedure.
[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

(2) A person subject to the proceedings who has been subjected to a sanction which has been imposed by a determination of the body that conducted the out-of-court proceedings or by a judgment of the court and which has become final is an offender.

(3) Where the person subject to the 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 such a person.

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

(1) The person subject to the proceedings has the right to:
1) know what misdemeanour case constitutes the subject matter of the proceedings;
2) be assisted by a defence counsel in accordance with the rules provided in subsections (2) and (3) of this section;
3) be present in court at the hearing of their misdemeanour case;
4) give testimony, submit evidence and make requests or applications;
5) know the purpose of the procedural operation that is being performed;
6) peruse the reports of the procedural operations performed as well as any audio or video recordings of those acts and make statements, to be taken down in minutes 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 decision of the body to conduct the out-of-court proceedings or of the court in accordance with the rules provided in this Code.

(1¹) A juvenile subject to the proceedings has the rights that are provided for under criminal procedure for juvenile suspects or accused:

1) if they have been arrested under subsection 1 of § 44 of this Code;
2) in proceedings before the courts.
[RT I, 20.12.2019, 1 – entry into force 30.12.2019]

(2) The person subject to the proceedings has the 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 body to conduct the proceedings 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 the 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 proceedings before the court if the person subject to the proceedings is 14 to 18 years of age or is unable to represent themselves due to a mental disorder.

(4) The person subject to the proceedings is required to:

- 1) appear when summoned by the body to conduct the proceedings if the summons states that appearance is mandatory;
- 2) comply with lawful directions of the body to conduct the proceedings.

Division 3

Defence Counsel in Misdemeanour Procedure

§ 20. Defence counsel

(1) Persons subject to proceedings and offenders may have a defence counsel who must be an advocate or, with the permission of the body to conduct the proceedings, a person who has been awarded at least an officially recognised Master's degree in legal studies or a qualification that, under subsection 2² 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 the defence counsel is proved by the corresponding power of attorney.

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

(4) An offender may file an appeal in cassation or an application for review of a final judicial decision only through an advocate.

[RT I 2005, 71, 549 – entry into force 01.01.2006]

§ 21. Rights and obligations of defence counsel and removal of defence counsel

(1) Defence counsel have the right to:

- 1) participate in the proceedings starting from the arrest of the person subject to the 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) submit evidence as well as requests and applications;
- 4) with the knowledge of the body to conduct the proceedings, use technical equipment in the performance of their defence obligations provided this does not interfere with the procedural operation.

(2) Following the rules provided in this Code, defence counsel have the right to:

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

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

(4) Under misdemeanour procedure, defence counsel are removed from proceedings on the grounds and in accordance with the rules provided under 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 in the State Legal aid Act.

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

(2) If the court finds that the person subject to the proceedings is unable to protect their rights or that, without the assistance of an advocate, their essential interests in court proceedings may fail to be protected, the court may, on its own initiative, decide to grant legal aid to the person on the grounds and in accordance with the rules provided in the State 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 defence counsel for themselves, the Bar Association appoints a counsel for them at the request of the court and at the expense of the state.
[RT I 2009, 1, 1 – entry into force 01.01.2010]

(4) A copy of the 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 in clauses 1–C0#3F3 and 5–C0#3F6 of subsection 1 of § 29, a reasonable fee paid by the person subject to the proceedings to the defence counsel chosen by that person is reimbursed, at the request of that 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]

Division 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 removed on the grounds and following the rules provided under criminal procedure.

(2) In out-of-court proceedings, interpreters or translators are engaged in the conduct of procedural operations at the request of the party to proceedings or the witness; an interpreter or translator is engaged in the conduct of court proceedings whenever necessary. Interpreters or translators recuse themselves or are recused from proceedings on the grounds and following the rules provided under criminal procedure.
[RT I, 14.02.2014, 1 – entry into force 24.02.2014]

Division 5 Grounds for Officials of Bodies to Conduct Out- of-Court Proceedings and for Judges to Recuse Themselves, and Recusal of Officials of Bodies to Conduct Out-of-Court Proceedings and of Judges

§ 25. Grounds for officials of bodies to conduct out-of-court proceedings or for judges to recuse themselves

(1) An official of a body to conduct out-of-court proceedings, or a judge, is required to recuse themselves if:
1) they are a person close to the person subject to the proceedings, which means their lineal ascendant or descendant or first or second degree collateral relative, or are or have been a first degree relative by marriage, an adoptive parent, adoptive child or the spouse of the person subject to the proceedings;
2) they have previously conducted proceedings in the same misdemeanour case;
3) for any other reason, it is not possible for them to be impartial.

(2) The participation of a judge in proceedings before the Criminal Chamber of the Supreme Court does not constitute a ground for the judge to recuse themselves from further proceedings in the same misdemeanour case before the Supreme Court.

(3) Officials of bodies to conduct proceedings and judges are not allowed to recuse themselves from proceedings in a misdemeanour case unfoundedly.

(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 the proceedings, may not serve on the judicial panel dealing with the case.

(5) The official of a body to conduct out-of-court proceedings or the judge formalizes their recusal by a reasoned recusal order which is included in the misdemeanour file.

§ 26. Recusal of officials of bodies to conduct out-of-court proceedings or of judges

(1) If the official of a body to conduct the out-of-court proceedings, or the judge, does not recuse themselves when grounds for recusal provided in subsection 1 of § 25 of this Code are present, a party subject to those proceedings may submit an application for recusal of the official or the judge. In court proceedings, the body

to conduct the out-of-court proceedings also has the right to submit an application for recusal of the judge. The application for recusal of an official of the body to conduct the out-of-court proceedings or of the judge is to be submitted without delay upon learning of the grounds for recusal.

(2) The application for recusal of an official of the body to conduct the out-of-court proceedings may be submitted until the making of determination in the misdemeanour case.

(3) The application for recusal of the judge may be submitted until the end of the implementation stage of the hearing of the misdemeanour case or of appeal against a determination made in such a case. If the ground for recusal becomes apparent at a later stage and is notified without delay to the judge, the application for recusal may be submitted until the end of the substantive hearing of the case.

(4) An official of a body to conduct out-of-court proceedings recuses themselves by a substantiated order or, in the case of denial of the application for recusal, substantiates their non-recusal in the decision entered in the misdemeanour case. The judge dealing with a misdemeanour case as a single judge resolves the application for recusal by making a separate order without convening a sitting, or by making a substantiated order recorded in the minutes of the sitting or, if the application is denied, substantiates their non-recusal in the decision entered in the misdemeanour case.

(5) If the court that is considering the appeal sits as a panel, it hears the explanations of the judge to be recused and the opinions of the person subject to the proceedings and of their representative. The application for recusal is resolved by an order made in chambers. An application for recusal of a single member of the panel is resolved by the rest of the panel without the presence of the judge to be recused. If the votes against and the votes in favour are divided equally, the judge is deemed recused. An application for recusal of several members of the panel, or of the entire panel, is resolved by the same panel by a simple majority vote.

(6) When an application for recusal has been filed, the official of the body to conduct the out-of-court proceedings, or the judge, may only perform urgent procedural operations before resolving the petition. [RT I 2003, 83, 557 – entry into force 01.01.2004]

§ 27. Filing of complaint against denial of the application for recusal of an official of the body to conduct the out-of-court proceedings or of the judge

A party subject to the proceedings who has filed an application for recusal of an official of the body to conduct the out-of-court proceedings or of the judge may raise objections concerning denial of their application in the appeal filed against the decision made in the case. Objections may include a reference to the ground for recusal of the official or of the judge if the application for recusal was filed within the prescribed time limit but was denied or if the ground for recusal became apparent after the misdemeanour case had been resolved.

Chapter 3 PARTICIPATION IN PROCEEDINGS BEFORE THE COURT OF BODIES TO CONDUCT OUT-OF-COURT PROCEEDINGS

§ 28. Rights and obligations in proceedings before the court of bodies conducting out-of-court proceedings

(1) The body that conducted out-of-court proceedings in the case has the right to participate in proceedings before the court in that case.

(2) In proceedings before the court, the body that conducted out-of-court proceedings in the case has the right to:

- 1) participate in the hearing of the misdemeanour case in court;
- 2) submit evidence and requests;
- 3) examine the misdemeanour file;
- 4) contest the decision of the court in accordance with the rules prescribed by this Code.

(3) In proceedings before the court, an official of the body that conducted out-of-court proceedings in the case 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 MISDEMEANOUR PROCEEDINGS AND GROUNDS FOR TERMINATION OF MISDEMEANOUR PROCEEDINGS

§ 29. Circumstances precluding misdemeanour proceedings

(1) Misdemeanour proceedings are not commenced and any proceedings 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 decision to terminate misdemeanour proceedings concerning the same act has been entered with regard to 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 juvenile 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 body to conduct the out-of-court proceedings, or the court, sends a notification, and a copy of the requisite portion of the documents of the relevant misdemeanour case, to the local authority in whose administrative territory the juvenile 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 if this is requested by the person subject to the proceedings in order to rehabilitate themselves and if the limitation period has not expired.

§ 30. Termination of misdemeanour proceedings for considerations of expediency

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

(1) The body to conduct misdemeanour proceedings may terminate those proceedings if:

- 1) the person subject to the proceedings is not culpable to a high degree and there is no public interest in continuing the proceedings;
- 2) the person subject to the proceedings has voluntarily compensated for or remedied the harm caused by the misdemeanour;
- 3) the person subject to the proceedings has undertaken to participate in a community programme or
- 4) the juvenile subject to the proceedings has undertaken to have recourse to a conciliation service or has assumed another appropriate obligation.

(1¹) Compliance with the obligation provided for in 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 body to conduct the out-of-court proceedings appends to the misdemeanour file a summary of the completion of the social programme.

(1²) 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 conciliation service or performance of the obligation, the body to conduct the out-of-court proceedings may resume the 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 conciliation service is not deducted from the sanction.

(1³) In the case of termination of misdemeanour proceedings on the grounds provided in subsection 1 of this section, the person subject to the proceedings reimburses the costs of the case. The costs of the case of a juvenile subject to the proceedings are borne by the state.

(1⁴) When determining the costs of the case, the body to conduct the proceedings has regard to the provisions made in subsection 3 of § 180 of the Code of Criminal Procedure.

(2) If the body to conduct the out-of-court proceedings 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 in subsection 2 of § 87 of the Penal Code, that body may caution the juvenile, terminate the proceedings and, if the juvenile is a child in need of assistance for the purposes of § 26 of the Child Protection Act, send a notification regarding that juvenile, and a copy of the requisite portion of the documents of the misdemeanour case, to the local authority in whose administrative territory the juvenile has their residence.

[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 presentation and collection of evidence is subject to the relevant provisions of criminal procedure without prejudice to special rules provided in this Code.
[RT I, 06.07.2013, 3 – entry into force 16.07.2013]

(1¹) 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 body to conduct the out-of-court proceedings, and the court, has the 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 the proceedings concerning a corruption misdemeanour, the body to conduct the corresponding out-of-court proceedings may request that the court make 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]

§ 31¹. Fingerprinting, and taking DNA samples from, persons subject to proceedings

Persons subject to proceedings who are suspected of having committed the offences defined in §§ 15¹ and 15² of the Narcotic Drugs and Psychotropic Substances and their Parent Substances Act or in § 218 of the Penal Code, may be fingerprinted for the purposes of proceedings and for the purposes of detection and prevention of offences, and their DNA samples may be taken. The data obtained as a result of fingerprinting such persons and of analyzing the DNA samples taken from them is entered, respectively, in the National Fingerprint Database and the National DNA Database.

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

§ 31². Requiring electronic communications undertakings to provide data

(1) The Data Protection Inspectorate, the Financial Supervision Authority, the Estonian Internal Security Service, the Environmental Inspectorate, the Tax and Customs Board and the Police and Border Guard Board may 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.

(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 § 111¹ 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 request for obtaining the information mentioned in subsections 2 and 3 of § 111¹ 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 accomplish 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]

§ 31³. Official of the body to conduct the out-of-court proceedings as source of evidence

(1) The official of the body to conduct the out-of-court proceedings 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 determination made under expedited procedure may participate in proceedings before the court 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 court proceedings or proceedings related to any appeal in the case as a representative of the body that conducted out-of-court proceedings in that case.

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

§ 31⁴. Photographs, films and other data recordings as evidence

(1) Under misdemeanour procedure, photographs, films or other data recordings made by the body to conduct the proceedings may constitute an independent evidentiary item provided they conform to the provisions of clauses 1–3 of subsection 1¹ 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 determination made under expedited procedure concerning any requests made by persons who were present during the photographing, filming or other recording, or concerning the absence of such requests.

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

§ 31⁵. Data in national registers

If the commission of a misdemeanour is proven by the data of a national register which have legal significance and the enquiry made to the register can be repeated, a note concerning the making of the enquiry to the database is made in the misdemeanour investigation report or in the determination 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]

§ 32. Prohibition on collection of 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.

§ 33¹. Prohibition on witness representatives

When interviewed under misdemeanour procedure, witnesses are not entitled to a representative.

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

§ 34. Special rules concerning physical examination of persons

(1) The physical examination of persons may be conducted by an official of the body to conduct the out-of-court proceedings who, according to § 45 of this Code, is authorized to make arrests.

(2) An official of the body to conduct the out-of-court proceedings who does not have the authority to make arrests may make a request 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 body to conduct the out-of-court proceedings.

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

(3) The official of the body to conduct the out-of-court proceedings who carried out the physical examination of a person draws up 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. Special rules concerning searches

(1) Under misdemeanour procedure, the body to conduct the out-of-court proceedings may conduct searches on the basis of their own order which has been endorsed with the permission of the district judge.

(2) No search may be conducted in the premises of a diplomatic representation.

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

§ 36. Prohibition on seizure of property

Under misdemeanour procedure, the seizure 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 bodies to conduct out-of-court proceedings 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 establishes guidelines for reimbursement of costs to participants of hearings in misdemeanour cases.

Chapter 6 SUMMONING AND THE IMPOSITION OF FINES AND COMPELLED ATTENDANCE IN CASE OF NON-APPEARANCE

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

If the whereabouts of the person subject to the proceedings are unknown, they are to be ascertained by the body to conduct the out-of-court proceedings or, in the case of proceedings before a court, by the court.

§ 40. Summons

(1) Persons are summoned to appear before the body to conduct the proceedings 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 a body to conduct out-of-court proceedings is being summoned, the name and the address of the seat of that body;
- 3) the reason for summoning the person, and the capacity in which the person is summoned;
- 4) the legal description 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 the proceedings is being summoned, their rights and obligations according to § 19 of this Code;
- 7) whether, where the person subject to the proceedings is being summoned, their appearance is mandatory, and the consequences of non-appearance according to § 43 of this Code;
- 8) whether, where the body to conduct the out-of-court proceedings 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 receipt. The form sets out the given name and surname of the person to whom the summons is addressed, the person's signed 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 body to conduct the proceedings concerning such refusal, the date of the refusal and the signature and official title of the body.

[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 receipt according to subsection 2 of this section or served on that person by post in the form of a registered letter subject to notice of delivery according to subsection 3 or sent by electronic means according to subsection 4.

(2) The summons is delivered to an adult or to a juvenile of at least 14 years of age against signed 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 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 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 subject to notice of delivery or delivered to the person against signed receipt by the body to conduct the proceedings.

(4¹) If the summons is made accessible through the E-file system, a notice concerning the fact of the summons is sent to the addressee's email address which is 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 to whom the recipient has made it possible to view documents in the information system. If the summons has not been read 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 subject to notice of delivery or delivered to the addressee against signed receipt.
[RT I, 22.03.2013, 9 – entry into force 01.04.2013]

(5) The summons must be served on the person subject to the proceedings and their defence counsel with sufficient notice to make it possible for them to appear. When the summons is served on the defence counsel chosen by the person subject to the proceedings, it is deemed also to have been served on the principal of that 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 the proceedings has made their residence or seat known in a procedural document that they have signed, the summons is sent to the person to that address. If the person has not notified the body to conduct the proceedings of having changed their address, the summons is sent to their last address that is known to the body to conduct the proceedings.

(8) Notices read by an official of the body to conduct the out-of-court proceedings or by a judge to the parties subject to proceedings who are present are deemed equivalent to delivery of the summons against signed receipt provided a corresponding note is 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 responsible for the area may by a regulation enact specific requirements for electronic service of procedural documents in court 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 body to conduct the proceedings 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 body to conduct the proceedings regards as valid.

§ 43. Imposition of fines or of compelled attendance for non-appearance

(1) If the person subject to the 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 in 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 body to conduct the out-of-court proceedings or in court, that body or the court may, by order, direct that they be compelled to attend.

(4) Compelled attendance is effected by the police.

Chapter 7 ARRESTS

§ 44. Grounds and time limit for arrests

(1) A person with regard to whom 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 body to conduct the out-of-court proceedings who, under § 45 of this Code, has the authority to make arrests, or to a police custody centre;

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

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 a district court for a hearing of their case if they have committed a misdemeanour and the body to conduct the out-of-court proceedings deems it necessary to impose custodial detention, and the corresponding misdemeanour investigation report and other procedural documents have been drawn up. In such a situation, the person subject to the proceedings may file an objection with the court.

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

(3) The arrest commences from the moment when the person is arrested. The time spent under arrest is included in the custodial term of the sentence in accordance with the rules provided in 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 in 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–C0#3F4 of § 35¹ 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 authorized to make arrests

(1) The following officials of the bodies to conduct out-of-court proceedings are authorized to make arrests on the grounds and following the rules provided in § 44 of this Code:

1) police officers or officials of the Tax and Customs Board authorized to enforce customs legislation;

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

2) officials authorized 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.

4) prison officers in the case of the misdemeanour defined in subsection 1 of § 325 of the Penal Code.

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

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

§ 46. Arrest report

(1) A report is drawn up concerning any arrest made on the grounds provided in subsection 1 of § 44 of this Code. The drawing up of the 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) The arrest report sets out:

- 1) the place and date of the corresponding procedural operation;
- 2) the name of the body to conduct the out-of-court proceedings and the position, given name and surname of the official of that body who drew up 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 the 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 description of the misdemeanour;
- 8) the explanation, to the person subject to the 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 declarations or requests 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 who draws up that report and by the police officer who assisted in the making of the arrest. The person subject to the proceedings signs the report to show that they have been apprised of the report and that the rights and obligations provided in § 19 of this Code have been explained to them. If the person subject to the proceedings refuses to sign the report, the corresponding entry is made in that report.

(4) At the request of the person subject to the proceedings, at least one person of their choice is notified of their location. If the person arrested is a juvenile, 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 on procedural operations, and any orders or determinations made by the body to conduct the out-of-court proceedings;
- 2) in court proceedings – court orders, minutes of court sittings and the judgment.

(1¹) With the consent of the person subject to the proceedings, provided in a form allowing for reproduction in writing, the drawing up of the report of the procedural operation may be replaced by an audio and video recording of the procedural operation, provided the recording contains the information provided for in 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 the 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]

(1²) If the person subject to the proceedings does not consent to the drawing up of the report of the procedural operation being replaced by an audio and video recording of that act, the procedural operation is reported following the rules prescribed by this Code.

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

(1³) 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 the proceedings.

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

(2) Any orders or any reports of procedural operations which are drawn up 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.

§ 47¹. Making procedural documents available in court proceedings

(1) The court makes the procedural documents of court proceedings immediately available to the parties to those proceedings in the E-file system regardless of how such documents are served on those parties.

(2) The minister responsible for the area may by regulation enact specific requirements for making procedural documents available through the information system.

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

§ 48. Order

(1) An order is:

- 1) a substantiated procedural ruling of the body to conduct the out-of-court proceedings 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 court proceedings, a procedural ruling which is made to resolve a singular issue and which is not required to be substantiated.

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

- 1) the place at and date on which the order is drawn up;
- 2) the name of the court or the body to conduct the out-of-court proceedings and the given name, surname and official title of the person who draws up the order;
- 3) the name of the misdemeanour case – the person with regard to whom misdemeanour proceedings have been commenced, and the legal description of the misdemeanour;
- 4) the given name, surname and personal identification code of the person subject to the 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 the 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 sets out the ruling made to resolve 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 to be observed.

(6) Compliance with the order of the body to conduct the proceedings is mandatory.

§ 49. Report of procedural operation

(1) The report of a procedural operation is drawn up in legible handwriting, typed or word-processed. If necessary, the assistance of a minute-taker may be used.

(2) The introduction of the report sets out:

- 1) the place and date of the procedural operation;
- 2) the name of the court or of the body to conduct the out-of-court proceedings and the official title, given name and surname of the person who draws up the report;
- 3) the name of the misdemeanour case and the name of the procedural operation;
- 4) where this is provided for by statute, 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 subject to the 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 the 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 the report lists the objects taken in the course of the procedural operation, the manner in which they are packaged and the place of their storage.

(6) The report is signed by the person to draw up that report.

§ 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.

§ 50¹. Transmission of digital documents

(1) Unless otherwise provided for in this Code, any digital applications, complaints, challenges, appeals, objections and other documents to be filed in misdemeanour proceedings are filed personally or through the E-file system. The body to conduct proceedings enters any personally filed digital documents in the E-file system.

(2) In order to include a digital document in the misdemeanour file, that document is printed and placed in the file. The body to conduct the proceedings certifies the truth of the printed copy and of its correspondence to the digital document by their signature and by a note stating the identification number of the document in the E-file system.

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

§ 50². 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 the procedural documents and other documentation related to the case. Where this is prescribed by statute, other objects related to the proceedings are appended to the court file.

(3) In addition to the provisions of this Code, court files in misdemeanour cases are also subject to those of subsections 3–7 of § 160¹ of the Code of Criminal Procedure.

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

§ 51. Requirements for documents

(1) The minister responsible for the area establishes model forms of documents for out-of-court proceedings in misdemeanour cases.

(2) The minister responsible for the area establishes rules for the drawing up, transmission and preservation of documents signed digitally in misdemeanour proceedings and of other digital documents.

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

Chapter 9 JURISDICTION OVER MISDEMEANOURS PROVIDED FOR IN PENAL CODE

§ 52. Bodies to conduct out-of-court proceedings concerning misdemeanours provided for in 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 subsections 1 and 3 of § 152, in subsections 1 and 3 of § 153, in § 153¹, in §§ 157, 165–170, 179¹, 180, 224¹, 225, 226 and 264¹, in subsections 1 and 3 of § 266, in §§ 269, 271, 305, 334¹ and 334², in subsections 1 and 3 of § 336 and in §§ 337, 338, 342, 372¹ and 426 of the Penal Code are conducted by the Police and Border Guard Board.

[RT I, 26.06.2017, 69 – entry into force 06.07.2017]

(2) Out-of-court proceedings concerning the misdemeanours defined in subsections 1 and 3 of § 157¹ 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 the prison.

(4) Out-of-court proceedings concerning the misdemeanours defined in § 225¹ 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 Maritime Administration.

(7) Out-of-court proceedings concerning the misdemeanours defined in subsections 1 and 1¹ 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 body.

(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 authorized 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 municipality or city.
[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 Environment Inspectorate and the Rescue Board.

(14) Out-of-court proceedings concerning the misdemeanours defined in subsections 1 and 3 of § 353 of the Penal Code are conducted by the Environment Inspectorate and, as regards traffic requirements, by the Police and Border Guard Board.

(15) Out-of-court proceedings concerning the misdemeanours defined in §§ 362 and 366 of the Penal Code are conducted by the Environment Inspectorate.

(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 body.

(17) Out-of-court proceedings concerning the misdemeanours defined in § 398 and in subsections 1 and 3 of § 398¹ of the Penal Code are conducted by the Financial Supervision Authority.
[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 52¹. Competence for dealing with misdemeanours provided for in the Penal Code

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

Chapter 10

OUT-OF-COURT PROCEDURE

Division 1 Caution Procedure

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

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

Division 1¹ Written Caution Procedure

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

§ 54¹. Application of written caution procedure

(1) Where this is provided for by statute, the body to conduct the out-of-court proceedings may impose, on the registered owner of the motor vehicle or, if an authorized user has been entered in the register, on the authorized user (hereinafter ‘ *person responsible for the motor vehicle* ’) a cautionary fine in relation to a traffic misdemeanour committed with the motor vehicle if:

- 1) the reason for the commencement of misdemeanour proceedings is the information transmitted by an automated traffic supervision device concerning a violation of traffic rules, from which it is possible to visually identify the registration plate of the motor vehicle and the time and place of establishment of the violation; or
- 2) the enforcement 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 fine is imposed on the person who was the registered owner or authorized user of the motor vehicle at the time of commission of the misdemeanour.

(3) The cautionary fine imposed on an authorized 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 rate of the cautionary fine is 190 euros. Cautionary fine rates for specific misdemeanours are provided in the Traffic Act.

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

(5) Where the traffic misdemeanour is a minor one and the body to conduct the out-of-court proceedings finds that cautioning the person responsible for the motor vehicle without imposing a fine is sufficient, that body may decide not to impose a cautionary fine and caution the person responsible for the motor vehicle in writing.

(6) Application of the written caution procedure in accordance with the rules provided in subsections 1 or 5 of this section terminates misdemeanour proceedings. The body to conduct the out-of-court proceedings resumes the proceedings under expedited or regular procedure on the grounds provided for in subsections 3 or 6 of § 54⁶ of this Code.

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

§ 54². Notice of fine

(1) In the case provided for in subsection 1 of § 54¹ of this Code, a notice of fine is sent to the person responsible for the motor vehicle, which sets out:

- 1) the time and place of imposing the cautionary fine;
- 2) the name, registry code and address of the body to conduct the out-of-court proceedings;
- 3) the given name, surname and position of the official of the body to conduct the out-of-court proceedings who drew up 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 there is no such 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 description of the misdemeanour, including the time and place of its commission;
- 7) the legal description of the misdemeanour;
- 8) the basis for the imposition of the cautionary fine;
- 9) the rate of the cautionary fine.

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

- 1) an explanation stating that a cautionary fine imposed on an authorized user of a motor vehicle is not a sanction 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;
- 2) information stating that the cautionary fine has to be paid within thirty days following receipt of the notice; after the expiry of this term the cautionary fine may be collected by means of compulsory enforcement;
- 3) information stating that the person responsible for the motor vehicle has the right to contest the notice within thirty days following its receipt, and an explanation concerning the procedure for contestation;
- 4) information stating that, at the request 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 which sets out the bank account number and a reference number is appended to the notice of fine.

(4) The official to draw up the notice of fine signs that notice. The notice may be signed digitally.

(5) A notice of fine is prepared in two identical copies the first of which is sent to the person responsible for the motor vehicle and the other remains with the body to conduct the out-of-court proceedings. If the notice was signed digitally, the body to conduct the out-of-court proceedings preserves an electronic copy of the notice sent. [RT I 2008, 54, 304 – entry into force 27.12.2008]

§ 54³. Service of notices of fine

(1) A notice of fine is sent to a natural person by post, by sending a registered letter to the address indicated in the population register or to another address of the person which is known to the body to conduct the proceedings in accordance with subsection 3 of § 41 of this Code or by electronic means in accordance with subsection 4 of § 41 of this Code.

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

(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 notice of fine cannot be delivered in any other manner, the body to conduct the out-of-court proceedings may publish the notice in the official publication *Ametlikud Teadaanded*.

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

(3) When a notice of fine is published in the publication *Ametlikud Teadaanded*, the given name and surname of the person responsible for 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 be served by public announcement when 30 days have passed from the day of its publication in *Ametlikud Teadaanded* or when the person acknowledges its receipt in the information system of *Ametlikud Teadaanded*.

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

(4) A notice of fine is sent to a legal person, to a state or local government agency or to a legal person in public law by regular letter to their address appearing in the register or by electronic means in accordance with subsection 4 of § 41 of this Code. When the notice is sent by electronic means, protection of the notice against third parties and acknowledgement of its receipt are not required. The document sent to a legal person, a state or local government agency or a legal person in public law at the address appearing in the register or at the email address shown in the register is deemed to have been served when thirty days have passed from its sending.

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

(5) The notice of fine is to be sent within ten working days from ascertaining the misdemeanour.

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

§ 54⁴. Payment of cautionary fine

(1) The cautionary fine has to be paid within thirty days following receipt of the notice of fine. The fine is deemed to have been paid on time if it is received 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 notice of fine but at the same time has failed to pay the fine by its due date, the body to conduct the out-of-court proceedings transmits that notice to a bailiff for immediate compulsory enforcement on the grounds and in accordance with the rules provided in the Code of Enforcement Procedure.

(3) If the person responsible for the motor vehicle has paid the cautionary fine or if the fine 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]

§ 54⁵. Contestation of the notice of fine

(1) If the person responsible for the motor vehicle does not agree with the cautionary fine that has been imposed, they have the right to contest the notice within thirty days following its receipt. If the fine is contested, it does not become effective.

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

(2) A challenge against a notice of fine is filed in writing with the body to conduct the out-of-court proceedings who drew up the notice and sets out:

1) the name of the body to conduct the out-of-court proceedings who drew up 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 body to conduct the out-of-court proceedings which imposed the cautionary fine;

6) the number and date of the notice;

7) the substance of and reasons for the requests made by the person who filed the challenge.

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

(2¹) The challenge is signed by the person filing it.

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

(3) If the person responsible for the motor vehicle is a natural person, they must, if they are contesting the notice of fine 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 in subsection 3 of this section if they submit an official confirmation showing that, prior to the time of commission of the act described in the notice of fine, a competent authority was informed of the theft, loss or destruction of the motor vehicle or of its registration plate, or if they submit evidence concerning the presence of circumstances which rule out unlawfulness.

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

(5) Legal persons, the state, local authorities or legal persons in public law set out 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 notice of fine.

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

(6) Legal persons, the state, local authorities or legal persons in public law are exempted from the obligation provided in subsection 5 of this section, if they submit an official confirmation showing that, prior to the time of commission of the act described in the notice of fine, a competent authority was informed of the theft, loss or destruction of the motor vehicle or of its registration plate, or if they submit evidence concerning the presence of circumstances which rule out unlawfulness.

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

§ 54⁶. Resolution of challenge by the body to conduct the out-of-court proceedings

(1) If the challenge of the person responsible for the motor vehicle does not conform to the requirements of subsection 2 of § 54⁵ of this Code, the body to conduct the out-of-court proceedings makes an order by which it halts proceedings on 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 body to conduct the out-of-court proceedings dismisses that challenge.

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

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

1) the challenge is filed after expiry of the time limit provided in subsection 1 of § 54⁵ of this Code and no request has been made for reinstatement of that time limit, or if the body has decided not to reinstate the time limit;

2) the challenge is filed by a person who under subsection 1 of § 54⁵ of this Code does not have the 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 in subsection 1 of this section;

4) the challenge is based on the circumstances described in subsections 4 or 6 of § 54⁵ 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 submits the evidence referred to in subsection 4 or 6 of § 54⁵ together with the challenge, the body to conduct the out-of-court proceedings may decide not to resume misdemeanour proceedings and draw up an order by which it cancels the notice of fine 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 notice of fine, the body to conduct the out-of-court proceedings sends the notice to that natural person.
[RT I 2010, 17, 91 – entry into force 10.05.2010]

(5) Service of the notice of fine takes place in accordance with § 54³ of this Code and its contestation in accordance with subsections 1 and 2 of § 54⁵ 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 notice of fine, the body to conduct the out-of-court proceedings resumes misdemeanour proceedings by an order or by a procedural operation under expedited or regular procedure. When imposing a sanction or sentence in resumed proceedings, the cautionary fine rate indicated in the notice is not binding on the body to conduct the proceedings.
[RT I 2008, 54, 304 – entry into force 27.12.2008]

(7) The body to conduct the out-of-court proceedings 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]

§ 54⁷. Special rules concerning proceedings in respect of traffic misdemeanours committed by means of motor vehicles 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 in this section.

(2) In order to draw up and serve the notice of fine, the body to conduct the out-of-court proceedings addresses an enquiry to the competent authority that is mentioned in subsection 1 of § 200³ of the Traffic Act and that is authorized 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 body to conduct the out-of-court proceedings:

- 1) the given name, surname, personal identification code or, if there is no such 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 authorized 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 authorized 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 body to conduct the out-of-court proceedings has received from a competent authority the particulars listed in subsection 3 of this section concerning the person responsible for the motor vehicle, that body draws up the notice of fine and appends to the notice a translation into one of the official languages of the Member State concerned, or draws up the notice of fine 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 § 54² of this Code is not included in it. Of the information referred to in clause 5 of subsection 1 of § 54² of this Code, the notice sets out the name of the legal person and the address of its seat.

(5) The notice of fine 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 notice of fine is deemed to have been delivered when 30 days have passed from its sending.

(6) The person responsible for the motor vehicle has the right to contest a notice of fine 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 § 54⁶ of this Code is not in Estonia, the body to conduct the out-of-court proceedings refuses to resume misdemeanour proceedings if this person contests the notice of fine, draws up 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 the notice of fine is not in Estonia, subsection 2 of § 54⁴ of this Code does not apply.

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

Division 1² **Abridged Procedure**

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

§ 54⁸. Application of abridged procedure

(1) Where this is provided for by statute, when commencing misdemeanour proceedings, the body to conduct the out-of-court proceedings applies the abridged procedure and imposes a corrective fine on the person who committed the act that shows the elements of a misdemeanour. The application of abridged procedure is not mandatory if:

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

(2) Abridged procedure is not applied if:

- 1) written caution proceedings are commenced with regard to the same act;
- 2) the act that shows 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 entitlements or a term of custodial detention, 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, their legal representative is notified of this without delay.

(4) The maximum rate of the corrective fine is 80 euros. The rate of the corrective fine for a misdemeanour is provided by statute. Where a corrective fine is imposed on a person who is at least fourteen but less than eighteen years of age, the rate of the fine provided by statute is divided by two.

(5) When imposing corrective fines on persons subjected to the abridged procedure, the provisions of subsections 1 and 3 of § 63 of the Penal Code are to be taken into consideration.

(6) A corrective fine 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 the person to be reoffending or for the application of other legal consequences prescribed for offences.

(7) When applying the abridged procedure, the body to conduct the out-of-court proceedings:

- 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 that is the subject of proceedings against them and, according to subsection 2 of § 54⁹ of this Code, the special rules that apply when the abridged procedure is used;
- 3) draws up the determination that concludes the abridged procedure as set out in § 54⁹ of this Code.

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

- 1) know what misdemeanour the proceedings against them are for;
- 2) view or listen to any recordings made in the course of the corresponding law enforcement operations;
- 3) give explanations concerning the circumstances of the misdemeanour;
- 4) contest the determination that concludes the abridged procedure in accordance with the rules provided by this Code.

(9) When using the abridged procedure, the body to conduct the out-of-court proceedings may decide not to formalize an evidentiary item and, instead, in the determination 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]

§ 54⁹. Determination that concludes the abridged procedure

(1) With regard to the imposition of a corrective fine on the person subjected to the abridged procedure, the body to conduct the out-of-court proceedings draws up the determination that concludes the abridged procedure and that sets out:

- 1) the date and place of making the determination;
- 2) the name and address of that body;
- 3) the given name, surname and position of the official of that body who made the determination;
- 4) the given name and surname, personal identification code and residential address of the person subjected to the abridged 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 abridged procedure regarding their rights that are set out in subsection 8 of § 54⁸ of this Code;
- 6) the place and time of commission of the misdemeanour;
- 7) the legal description of the misdemeanour: the name, section, subsection and clause of the relevant statute and, if this is needed, any alternative definition that is relevant, a short description 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 imposition of the corrective fine;
- 10) the rate of the corrective fine.

(2) In addition to the information provided for in subsection 1 of this section, the determination that concludes the abridged procedure sets out:

- 1) an explanation that a corrective fine 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 the person to be reoffending or for the application of other legal consequences prescribed for offences;
- 2) information stating that the corrective fine must be paid within 15 days following receipt of the determination that concludes the abridged procedure and that, after the expiry of this time limit, the corrective fine may be collected by means of compulsory enforcement;
- 3) the details of the bank account to which the corrective fine 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 the right to contest the determination that concludes the abridged procedure within 15 days following its receipt by filing a corresponding challenge with the body to conduct the out-of-court proceedings, as well as information to the effect that, if a challenge is filed, the determination 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 body to conduct the out-of-court proceedings will not be bound by either the legal description of the misdemeanour or the rate of the corrective fine indicated in the determination;
- 5) information concerning the fact that transmission, to the person subjected to the abridged procedure, with the consent of that person and by electronic means, of the determination that concludes the abridged procedure does not change the time limits provided in clauses 2 and 4 of this subsection.

(3) When the determination that concludes the abridged procedure is delivered to the person subjected to that procedure, it is explained to them that the time limit for challenging the determination starts to run from the date of its delivery.

(4) The determination that concludes the abridged procedure is signed by the official of the body to conduct the out-of-court proceedings who drew up that determination.

(5) The determination that concludes the abridged procedure is drawn up in two identical copies the first of which is given to the person subjected to that procedure immediately after the signing of the determination against an acknowledgement of receipt signed for on the second copy of the determination. With the consent of the person subjected to the abridged procedure, a copy of the determination is sent to the email address of the person. The sending of a copy of the determination does not change the time limits provided in §§ 54¹⁰ and 54¹¹ of this Code.

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

(7) With the consent of the person subjected to the abridged procedure, the body to conduct the out-of-court proceedings may decide not to draw up and sign the determination that concludes the abridged procedure in accordance with the rules provided in subsections 4 and 5 of this section, and to draw up and transmit such a determination to that person only electronically. The consent of the person to the electronic drawing-up and transmission of the determination is confirmed by an electronic note made by them. The official of the body to

conduct the out-of-court proceedings who drew up the determination appends to it their own electronic note. The determination is sent to the person without delay.

(8) Where the determination that concludes the abridged procedure is drawn up in accordance with the rules provided in subsection 7 of this section, the person subjected to that procedure is deemed to have received the determination if they have appended an electronic note to it.

(9) The drawing up of the determination that concludes the abridged procedure terminates the misdemeanour proceedings. Misdemeanour proceedings are resumed by the body to conduct the out-of-court proceedings in accordance with the provisions of subsection 1 of § 54¹² of this Code.
[RT I, 31.05.2018, 1 – entry into force 01.01.2019]

§ 54¹⁰. Payment and enforcement of corrective fines

(1) Corrective fines are paid to the bank account specified in the determination that concludes the abridged procedure within 15 days following receipt of the determination. A corrective fine is deemed to have been paid on time if it is credited to that account by the due date.

(2) If the person subjected to the abridged procedure has not contested the determination that concludes that procedure but has failed to pay the corrective fine by the due date, within ten days the body to conduct the out-of-court proceedings transmits the determination, which has become effective, to a bailiff for compulsory enforcement.

(3) If the determination that concludes the abridged procedure has become effective, the person subjected to that 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]

§ 54¹¹. Contestation of determinations that conclude the abridged procedure

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

(2) The challenge is filed in writing and sets out:

- 1) the name and address of the body to conduct the out-of-court proceedings that drew up the determination that concludes 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 determination that concludes the abridged procedure and the fact that the person subjected to that procedure does not agree with the determination.

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

§ 54¹². Resolution of challenge by the body to conduct the out-of-court proceedings

(1) If the person subjected to the abridged procedure has contested the determination that concludes the abridged procedure, the body to conduct the out-of-court proceedings resumes misdemeanour proceedings under the expedited or regular procedure by making the corresponding order or by performing a relevant procedural operation. If any of the circumstances provided for in subsection 1 of § 29 of this Code are present, the body may decide not to resume misdemeanour proceedings and draw up an order revoking the determination that concludes the abridged procedure and refusing to resume misdemeanour proceedings.

(2) If the challenge of the person subjected to the abridged procedure does not conform to the requirements provided in subsection 2 of § 54¹¹ of this Code, the body to conduct the out-of-court proceedings makes an order by which it halts proceedings on that challenge and sets a time limit for the appellant to cure its defects.

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

- 1) the challenge is filed after expiry of the time limit provided in subsection 1 of § 54¹¹ of this Code and no request for reinstatement of that time limit has been submitted or the body 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 in subsection 2 of this section;
- 3) the challenge has been filed by a person who, under subsection 1 of § 54¹¹ of this Code, does not have the right to file one.

(4) The body to conduct the out-of-court proceedings sends a copy of the order mentioned in subsection 1, 2 or 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 determination that concludes the abridged procedure or in the challenge.

(5) In resumed proceedings, the body to conduct the out-of-court proceedings is not bound either by the legal description of the misdemeanour or by the rate of the corrective fine stated in the determination that concludes the abridged procedure.

(6) The official of the body to conduct the out-of-court proceedings who drew up the determination that concludes the abridged procedure must not participate in resumed proceedings as the official to conduct out-of-court proceedings. Such an official, who has directly perceived the circumstances relating to the commission of the misdemeanour and has drawn up the determination 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]

Division 2

Expedited Procedure

§ 55. Application of expedited procedure

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

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

(2) In the determination 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 the 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 custodial detention or of withdrawal of the entitlement to drive 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 expedited procedure, the body to conduct the out-of-court proceedings collects evidence based on the provisions of Chapter 5 of this Code.

(5) When drawing up the determination that concludes the expedited procedure, the body to conduct the out-of-court proceedings must resolve the issues listed in § 108 of this Code.

§ 56. Provision of statement concerning commission of misdemeanour

(1) The statement of a natural person subject to the proceedings and the testimony of the statutory representative of a legal person subject to the proceedings concerning the commission of a misdemeanour is audio and video recorded or taken down as minutes on the form of the determination that concludes the expedited procedure or as a separate document. When the minutes are taken, the person subject to the proceedings may write their statement concerning the 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 the 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 body to conduct the out-of-court proceedings to whom the statement was given;
- 3) if the person subject to the 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 the 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 the proceedings, the address of their residence or seat, their place of employment, telephone number and email address;
- 6) the notification of the person subject to the proceedings of 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 subject to the proceedings 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 the 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]

(2¹) If the person's statement is taken down as minutes in the determination that concludes the expedited procedure, the information provided for in clauses 6 and 8 of subsection 2 of this section is set out and the person signs the corresponding acknowledgement in the determination that concludes the expedited procedure.
[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 the proceedings or by the statutory representative of the legal person subject to the 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 determination 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. Content of determination that concludes the expedited procedure

- (1) The determination that concludes the expedited procedure sets out:
- 1) the date and place of making the determination;
 - 2) the name, registry code and address of the body to conduct the out-of-court proceedings;
 - 3) the given name, surname and position of the official of the body to conduct the out-of-court proceedings who made the determination;
 - 4) the personal particulars of the person subject to the proceedings according to clause 4 or 5 of § 109 of this Code;
 - 5) information to show whether the person subject to the 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 description of the misdemeanour;
[RT I, 06.07.2013, 3 – entry into force 16.07.2013]
 - 8) the evidence that proves the commission of the misdemeanour;
 - 8¹) the statement of the person subject to the proceedings concerning commission of the misdemeanour.
[RT I 2008, 54, 304 – entry into force 27.12.2008]
 - 9) the legal description of the misdemeanour: the title, section, subsection and clause of the relevant statute;
 - 10) any mitigating and aggravating circumstances;
 - 11) the rate of the fine imposed on the person subject to the proceedings or, where subsection 1 of § 63 of the Penal Code is applied, the rate 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 rate 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) the manner of dealing with any objects used as physical evidence and with any other objects taken from persons as part of the proceedings;
 - 14) the ruling concerning case costs;
 - 15) information stating that the person subject to the proceedings and the defence counsel of that person have the right to file, with the district court, an appeal against the determination within 15 days following its receipt;
 - 16) if the fine is not to be paid in instalments, information stating that the fine has to be paid into the relevant bank account within 15 days following receipt of the determination, setting out the name and code of the bank and the name of the holder and the number of the bank account into which the fine has to be paid;
 - 16¹) 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 body to conduct the out-of-court proceedings;
 - 17) information stating that the determination will be enforced in if the person has not paid the fine in full within 15 days following receipt of the determination or has not filed an appeal against it with the district court.

(2) The determination is signed by an official of the body to conduct the out-of-court proceedings.

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

Division 3 Regular Procedure

Subdivision 1 General requirements

§ 58. Commencement of misdemeanour proceedings

(1) Misdemeanour proceedings are commenced by the first procedural operation.

(2) When the first procedural operation is performed, the person subject to the proceedings is notified of their rights and obligations according to § 19 of this Code.

(3) Where the requirements of a statute have been infringed for which the suspension of an entitlement is prescribed, when misdemeanour proceedings are commenced, the document certifying the entitlement is taken, without delay, from the person subject to the proceedings and added to the materials of the misdemeanour case.

§ 59. Resolution of misdemeanour report

(1) ‘Misdemeanour report’ means a report that describes events, facts or activities in which the elements of a misdemeanour may be present.

(2) If a misdemeanour report is submitted concerning the commission of a misdemeanour, the body to conduct the out-of-court proceedings 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 submitted 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 not to commence misdemeanour proceedings is based on the grounds provided for in § 29 of this Code and the misdemeanour report does not cite any damage caused by the misdemeanour to the person who made the report.

(4) When receiving the notice of decision not to commence misdemeanour proceedings, the person who submitted the misdemeanour report may file a challenge with the head of the body to conduct the out-of-court proceedings against such a decision in accordance with the rules provided in § 76 of this Code. [RT I, 19.03.2015, 1 – entry into force 29.03.2015]

§ 60. Summons to appear at the body to conduct the out-of-court proceedings

(1) The person subject to the proceedings and any witnesses in the case are summoned to the body to conduct the out-of-court proceedings by a summons in accordance with the rules provided in §§ 40 and 41 of this Code.

(2) The summons states that appearance is mandatory and that compelled attendance according to subsection 3 of § 43 of this Code may be ordered concerning any person who has been summoned but does not appear without a valid reason.

§ 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 body to conduct the out-of-court proceedings concludes that the act contains the elements of a criminal offence, the materials concerning the misdemeanour case are sent without delay to a prosecutor for a decision on the commencement of criminal proceedings. If the body to conduct the out-of-court proceedings is an agency authorized to conduct pre-court investigations, criminal proceedings are commenced without the materials being sent to a prosecutor. The ruling on the commencement of criminal proceedings may be made until the making of the determination by which the offender is sanctioned for the misdemeanour.

(2) If the prosecutor, having read 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 body to conduct the out-of-court proceedings 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 the misdemeanour proceedings, the public or the data subject, information concerning out-of-court proceedings may be disclosed before making the determination 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 data subjects or third parties.
[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(2) When a determination has been made in out-of-court proceedings, its disclosure is permitted on the terms prescribed by subsections 2 and 3 of § 408¹ 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 damage due to the misdemeanour, as well as their representative, have the right to read the determination made in the case.
[RT I, 05.12.2017, 1 – entry into force 15.12.2017]

§ 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 relevant misdemeanour cases 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 body to conduct the out-of-court proceedings 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]

Subdivision 2 Collection of Evidence

§ 64. Collection of evidence

A body to conduct out-of-court proceedings collects evidence based on the provisions of Chapter 5 of this Code.

§ 65. Statement of person subject to the proceedings

(1) The statement of a natural person subject to the proceedings or of the statutory representative of a legal person subject to the proceedings concerning commission of the misdemeanour is taken down as minutes 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 the proceedings may write their statement also in their own hand.

(2) The interview report sets out:

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

(3) The interview report is signed by the natural person subject to the proceedings or by the statutory representative of the legal person subject to the 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 body to conduct the out-of-court proceedings makes a note concerning the refusal in the interview report.

Subdivision 3

Deciding on Confiscation in the Course of Misdemeanour Proceedings

§ 66. Request by the body to conduct the out-of-court proceedings for making a decision on confiscation

If the object directly used for the purpose of committing the misdemeanour has been taken into custody in the misdemeanour case and attempts to identify its lawful possessor have been unsuccessful, the body to conduct the out-of-court proceedings, if it is not authorized to make confiscation decisions, addresses a substantiated request to the district court to make a decision on confiscation of the object. The request is sent to the district court together with the misdemeanour file.

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

§ 67. Making a decision on confiscation in the course of misdemeanour proceedings

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

(2) In order to resolve the request, the district court may require the body to conduct the out-of-court proceedings to submit additional materials.

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

(4) If the body to conduct the out-of-court proceedings is authorized to make confiscation decisions, the object directly used for the purpose of committing the misdemeanour has been taken into custody in the misdemeanour case and attempts to identify its lawful possessor have not been successful, that body may decide the confiscation of the object by an order made in the course of misdemeanour proceedings.

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

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

Subdivision 4 Misdemeanour Investigation Report

§ 68. Drawing up the misdemeanour investigation report

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

(2) If, when drawing up the misdemeanour investigation report, evidentiary information has to be supplemented or the legal description of the misdemeanour has to be amended, the report is supplemented accordingly.

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

(4) If several persons have committed a joint misdemeanour, a single report is drawn up.

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

§ 69. Content of misdemeanour investigation report

(1) The introduction of the misdemeanour investigation report sets out:

- 1) the date and place of drawing up the report;
- 2) the name, registry code and the address of the seat of the body to conduct the out-of-court proceedings;
- 3) the given name, surname, position, telephone number and email address of the official of the body to conduct the out-of-court proceedings;
- 4) the particulars of the person subject to the 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 the proceedings wishes that a defence counsel take part in the 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 the proceedings.

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

- 1) a short description of the misdemeanour and the time and place of its commission;
- 2) the legal description of the misdemeanour: the title, section, subsection and clause of the relevant statute;
- 3) the statement of the person subject to the proceedings or a reference that the statement has been taken down in a separate report;
- 4) the statements of the witnesses or a reference that those statements have been taken down in a separate report or in separate reports;
- 5) information concerning the damage caused by the misdemeanour;
- 6) if dealing with the misdemeanour case falls under the jurisdiction of the courts, information to show whether the person subject to the proceedings wishes to take part in the hearing of the case;
- 7) other evidence and information necessary for resolving the misdemeanour case.

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

(4) If no report has been drawn up concerning the arrest of the person, the final part of the misdemeanour investigation report sets out:

- 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 declarations and requests made by the person arrested.

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

(6) The final part of the misdemeanour investigation report states that the person subject to the proceedings and their defence counsel have the right to file objections and to submit evidence in the misdemeanour case with the body to conduct the out-of-court proceedings, as well as to read the misdemeanour file at the body during 15 days following receipt of a copy of such a report. At the request of the person subject to the proceedings and with the consent of the body to conduct the out-of-court proceedings, the time limit for reading the misdemeanour file and for the filing of 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 the proceedings or of a witness has been recorded in the misdemeanour investigation report, the statement is signed, respectively, by the person subject to the proceedings or the witness who made that statement. If the person subject to the proceedings refuses to give a statement or gives a statement but refuses to sign it, the official of the body to conduct the out-of-court proceedings makes a note concerning the refusal in the report.

(8) The misdemeanour investigation report is signed by the official of the body to conduct the out-of-court proceedings who drew up that report.

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

§ 70. Service of copy of the misdemeanour investigation report on the party subject to proceedings and notification of time and place for reading the decision of the body to conduct out-of-court proceedings

(1) A copy of the misdemeanour investigation report is delivered to the person subject to the proceedings against signed receipt. When the report is delivered, it is explained to the person that they have the right to file objections to the report, that the decision of the body to conduct the out-of-court proceedings will be made by written procedure and that they have the right to read that decision in the premises of the body to conduct the out-of-court proceedings. It is also explained that, if the person wishes, a copy of the decision will be sent to their email address.

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

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

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

(3¹) If the person subject to the proceedings is 14 to 18 years old, the body to conduct the out-of-court proceedings notifies, according to that person's choice, their parent or other statutory representative or guardian without delay of the fact of having drawn up the misdemeanour investigation report.
[RT I 2010, 44, 258 – entry into force 19.07.2010]

(4) Where the power to resolve the misdemeanour case is vested by statute with the body to conduct the out-of-court proceedings, the decision of that body must be available to the person subject to the proceedings in the body's premises when 30 days have elapsed from delivery to that person of a copy of the misdemeanour investigation report. At the request of the person and with the agreement of the body, the time limit for reading the decision and for delivery of a copy of that decision may be reduced. If, at the time of delivery of the report or in their objections, the person has communicated that they wish to receive the decision to their email address, a copy of the decision will be sent to the requested address.
[RT I, 19.03.2015, 1 – entry into force 01.09.2015]

(5) In the situation provided for in subsection 4 of this section, when the copy of the misdemeanour investigation report is delivered to the person subject to the proceedings, the date on which the decision of the body to conduct the out-of-court proceedings will be available to read in that body's premises and on which the person or their defence counsel may receive a copy of that decision is noted on the report and on the copy. With the agreement of the person, the body may send a copy of the decision, when it is ready, to the email address provided by the person or notify the person of the decision through the E-file system. Notifying the person of the fact that the decision is ready or sending them a copy of the decision does not change the time limits provided for the filing of appeals 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 delivered to the person subject to the proceedings, it is explained to them that the time limit for appealing the decision of the body to conduct the out-of-court proceedings starts to run from the date on which the body's decision becomes available for the person to read in the body's premises.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

§ 71. Sending the misdemeanour file to district court for hearing the case

(1) If hearing the misdemeanour case falls within the jurisdiction of the district court under § 83 of this Code, when 20 days have elapsed after a copy of the misdemeanour investigation report was received by the person subject to the proceedings or their defence counsel, the body to conduct the out-of-court proceedings sends the misdemeanour file together with any objections filed and together with any materials annexed to those objections to the district court for the case to be heard.

(2) If hearing the misdemeanour case falls within the jurisdiction of the district court under § 83 of this Code and the person subject to the 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]

Subdivision 5 Decisions under Regular Procedure

§ 72. Making of decision by the body to conduct the out-of-court proceedings

(1) If it is provided for by statute that dealing with a misdemeanour case falls within the jurisdiction of a body to conduct out-of-court proceedings and the statute does not prescribe the hearing of the case by a court, the body in question makes the decision provided for in § 73 of this Code by written procedure, without summoning the parties subject to the proceedings, based on the statement of the person subject to the 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 determination, the body to conduct the out-of-court proceedings must resolve the issues listed in § 108 of this Code.

§ 73. Decisions of bodies to conduct out-of-court proceedings under regular procedure

(1) The body to conduct the out-of-court proceedings makes:

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

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

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

(2) If the body to conduct the out-of-court proceedings makes an order on the termination of misdemeanour proceedings concerning a juvenile 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 determination made by the body to conduct the out-of-court proceedings

(1) The determination made by the body to conduct the out-of-court proceedings sets out:

- 1) the date and place of making the determination;
- 2) the body's name, registry code and address;
- 3) the given name, surname and position of the official of that body who made the determination;
- 4) the data of the person subject to the 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 description of the misdemeanour;
- 7) the date of the misdemeanour investigation report on which the determination is based, and the name of the person who drew up the report;
- 8) the reasons for disregarding the information contained in an objection;
- 9) the legal description of the misdemeanour: the title, section, subsection and clause of the relevant statute;
- 10) any mitigating or aggravating circumstances;
- 11) the rate of the fine imposed on the person subject to the proceedings or, if subsection 1 of § 63 of the Penal Code is applied, the rate of the fine in accordance with the legal provision which prescribes the most severe sanction or, if subsection 3 of § 63 of the Penal Code is applied, the rate of the fine for each separate misdemeanour;

11¹) the term for which the entitlement of the person subject to the proceedings to drive a vehicle, or to access state secrets and classified information of foreign states, or to process such secrets and information, is withdrawn as the principal sanction or as an ancillary sanction imposed in the case;

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

12) the ruling on confiscation if the body to conduct the out-of-court proceedings is authorized to make such rulings;

13) payment of the fine in instalments, in observance of the provisions of subsections 2 and 3 of § 66 of the Penal Code;

14) the manner of dealing with any objects used as physical evidence and with other objects taken from persons as part of the proceedings;

15) the ruling concerning case costs;

16) the rules and the time limit for appealing the determination;

17) if the fine is not to be paid in instalments, information stating that it has to be paid into the bank in full within 15 days as of the date on which the body's determination is made available to read in that body's premises, and the name and code of the bank and the name of the holder and the number of the bank account into which the fine has to be paid;

18) information stating that the determination concerning the fine will be enforced if, when 15 days have elapsed since the date on which the body's determination was made available for the parties subject to proceedings to read in the body's premises, the person subject to the proceedings has not paid it in full, or the person or their defence counsel has not filed an appeal against that determination;

19) information stating that the determination concerning withdrawal of the entitlement to drive a vehicle or to access state secrets and classified information of foreign states or to process such secrets and information, which has been imposed as the principal or as an ancillary sanction, will be enforced if, when 15 days have elapsed since the date on which the body's determination was made available for the parties subject to the proceedings to read in the body's premises and it was possible for the parties to obtain a copy of that determination, the person subject to the proceedings or their defence counsel has not filed an appeal against the determination.

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

(2) The determination is signed by the official of the body to conduct the out-of-court proceedings who made that determination.

§ 75. Order on termination of misdemeanour proceedings

(1) In the introduction to the order on the termination of misdemeanour proceedings, the official of the body to conduct the out-of-court proceedings sets out information according to subsection 2 of § 48 of this Code.

(2) The main part of an order on termination of misdemeanour proceedings sets out:

- 1) the reasons for that procedural ruling;
- 2) the ground for termination of misdemeanour proceedings according to § 29 or § 30 of this Code.

(3) The final part of the order on termination of misdemeanour proceedings sets out:

- 1) the procedural ruling;
- 2) the ruling on confiscation if the body to conduct the out-of-court proceedings is authorized to make such rulings;
- 3) the manner of dealing with any objects used as physical evidence and with any other objects taken from persons as part of the proceedings;

3¹) if misdemeanour proceedings are terminated on the basis of clauses 1–3 and 5–7 of subsection 1 of § 29 of the Code of Misdemeanour Procedure, the removal, from the national register of fingerprints and from the national DNA register, of any information collected in the misdemeanour case;

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

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

(4) The order is signed by the official of the body to conduct the out-of-court proceedings who made that order.

(5) If the body to conduct the out-of-court proceedings makes an order on the termination of misdemeanour proceedings concerning a juvenile 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]

(5¹) If any information was collected in the misdemeanour case which has to be deleted from the national register of fingerprints or the national DNA register, the body to conduct the proceedings notifies the Estonian Forensic Science Institute of the termination of criminal proceedings in a form allowing for reproduction in writing.

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

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

(7) The party subject to the proceedings and the non-party signs an acknowledgement on the order for receiving a copy of that order and notes the date of receipt of the order.

Subdivision 6

Complaining of the Actions of the Body to Conduct the Out-of-Court Proceedings

§ 76. Complaints about or challenges to actions of the body to conduct the out-of-court proceedings

(1) Until the making of the determination in the case by the body to conduct the out-of-court proceedings, the party subject to those proceedings and any non-party concerned by such proceedings has the right to make, to the head of that body, complaints about that body's actions, or challenges to those actions.

(2) A challenge against an order by which the body to conduct the out-of-court proceedings terminated misdemeanour proceedings or by which it decided a confiscation in those proceedings may be filed by the party subject to the proceedings or 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 body to conduct the out-of-court proceedings and sent to the address of the seat of that body.

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

(4) The complaint or challenge sets out:

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

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

3) the order or procedural operation contested, the date of making the order or performance of the procedural operation, and the name of the person with regard to whom 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 requests submitted in the complaint or challenge;

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

(5) Contesting an action of the body to conduct the out-of-court proceedings 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 body to conduct the out-of-court proceedings

(1) The head of the body to conduct the out-of-court proceedings or an official authorized by a legal instrument of the head of the body resolves the complaint or challenge by written procedure within five days following its receipt.

(2) When resolving the complaint or challenge, the head of the body to conduct the out-of-court proceedings or the official authorized 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, recognizing that those rights were infringed;
- 3) annulling 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 person who filed the complaint or made the challenge is notified of their right to file an appeal with the district court in accordance with § 78 of this Code concerning the resolution of their complaint or challenge.

(5) Any order entered when dealing with the complaint or challenge is sent without delay to the body to conduct the out-of-court proceedings 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]

§ 78. Filing of appeal with district court

(1) If the person concerned does not agree with the order made under subsection 2 of § 77 of this Code to resolve their complaint or challenge, and complains of actions of the body to conduct the out-of-court proceedings that have infringed their rights or freedoms, they have the right to appeal that order to the district court.

(2) The appeal may be filed:

- 1) by the party subject to the 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) The 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 body to conduct the out-of-court proceedings that made the order that is being contested.

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

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

§ 79. Resolution of appeal in district court

(1) A district judge is to consider the appeal within five days following its receipt.

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

(3) When resolving the appeal, the 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, recognize that those rights were infringed;
- 3) annul 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 body to conduct the out-of-court proceedings 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. Discontinuance of complaint, challenge or appeal

A complaint, challenge or appeal made concerning the actions of the body to conduct the out-of-court proceedings that has been filed under § 76 or § 78 of this Code may be discontinued until its resolution.

Subdivision 7 Clerical Arrangements in Out-of-Court Proceedings

§ 81. Assembling the misdemeanour file and organizing clerical business in misdemeanour proceedings

(1) When the out-of-court proceedings are completed, the body to conduct those proceedings prepares the relevant misdemeanour file by systematizing the materials of the case. The file may be without covers, where this is expedient. The pages of the file are numbered.

(2) The body to conduct the out-of-court proceedings organizes clerical business in misdemeanour proceedings in accordance with the document management procedure applicable in government agencies, without prejudice to any special rules provided in this Code.

§ 81¹. 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 in which proceedings are conducted by bodies to conduct out-of-court proceedings and by courts as well as cases in which misdemeanour proceedings were not commenced;
- 2) to reflect information concerning acts performed in the course of misdemeanour proceedings;
- 3) to facilitate the organization of the work of the bodies to conduct the proceedings;
- 4) to ensure the collection of statistics which are necessary for the making of decisions related to criminal justice policy;
- 5) to enable electronic transmission of data and documents.

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

- 1) information concerning misdemeanour proceedings which are being conducted, proceedings in which it has been decided not to commence misdemeanour proceedings, and misdemeanour proceedings which have been terminated;
- 2) information concerning acts performed in the course of misdemeanour proceedings;
- 3) digital documents where this is provided for in this Code;
- 4) information concerning the body to conduct the proceedings, the party subject to those proceedings, the offender, as well as any experts and witnesses;
- 5) the decisions of the body to conduct the out-of-court proceedings and of the courts.

(3) The E-file system is established and the constitutive regulations of the register are approved by the Government of the Republic.

(4) The controller of the data in the E-file system is the Ministry of Justice. The processors of the data in the system are the persons designated by the minister responsible for the area.

(5) The minister responsible for the area 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 HEARING OF MISDEMEANOUR CASES IN DISTRICT COURTS

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

Division 1 Jurisdiction to Deal with a Misdemeanour Case and Preparation for Hearing the Case

§ 83. Jurisdiction to deal with a misdemeanour case

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

- 1) jurisdiction to deal with the misdemeanour case or to decide on confiscation in the case is vested in the district court by statute;
- 2) when dealing with the misdemeanour case, the imposition of custodial detention, the making of a juvenile order, 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 misdemeanour file to district court for the case to be heard

If dealing with the misdemeanour case falls within the jurisdiction of the district court under § 83 of this Code, the body to conduct the out-of-court proceedings sends the misdemeanour file to the district court following the rules provided in subsection 1 of § 71 of this Code for the case to be heard by the court.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 85. Preparations for hearing the misdemeanour case

(1) When preparing the hearing of the misdemeanour case in court, the district judge:

- 1) verifies whether the court has jurisdiction over the case;
- 2) ascertains the parties to the proceedings before the court as well as any witnesses, interpreters or translators and experts, and notifies them of the time and place of the hearing;
- 3) ascertains the evidence that has to be examined at the hearing of the case in court and takes the measures required for such evidence to be presented at the sitting;
- 4) resolves the hearing of any witnesses in another district court under a special request;
- 5) resolves the commissioning of expert assessment, taking into account the relevant submissions of the parties;
- 6) resolves any requests made by the parties.

(2) If the court finds that adjudication of the case falls within the jurisdiction of an administrative court and the administrative court has previously declined such jurisdiction, the court to adjudicate the case is determined by a special panel of members of the Criminal and the Administrative Chamber of the Supreme Court following the rules provided in § 711 of the Code of Civil Procedure.
[RT I, 20.11.2014, 1 – entry into force 01.05.2015]

§ 86. Summoning to the hearing

The parties to the proceedings before the court 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]

Division 2 General Principles for Hearing Misdemeanour Cases

§ 87. Scope of the hearing

The misdemeanour case is heard strictly with regard to the person subject to the proceedings and within the scope provided by the misdemeanour investigation report.

§ 88. Maintenance of order at the hearing

(1) The parties to the 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 hearing of the 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 the proceedings in the hearing

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

(2) The district judge may require the participation of the person subject to the proceedings in the hearing of the misdemeanour case if this is necessary in the interests of the proceedings.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 90. Hearing the misdemeanour case without the presence of the person subject to the proceedings and their counsel

(1) If the person subject to the proceedings and their defence counsel have been notified of the place and time of the hearing, and have received the summons before the hearing but have not requested its adjournment, or if the request for adjournment has not been granted, the case is heard without that person or their counsel.

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

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

§ 91. Participation of the body to conduct the out-of-court proceedings in the hearing

(1) Participation of the body to conduct the out-of-court proceedings in the hearing of the misdemeanour case in the district court is mandatory and is notified to that body in the summons sent to it.

(2) If the relevant official of the body to conduct the out-of-court proceedings fails to appear at the hearing of the case, the district judge adjourns the hearing and notifies the head of that body in writing of the non-appearance of the official.

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

§ 92. Hearing the misdemeanour case without the presence of a witness or expert

If a witness or expert does not appear at the hearing of the case, the district judge decides on whether it is possible to proceed with the hearing after having heard the relevant submissions of the parties to the proceedings.

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

§ 93. Adjournment of the hearing

(1) The hearing of the misdemeanour case is adjourned if:

- 1) the case cannot be heard without the presence of the person who has not appeared at the sitting;
- 2) continuation of the sitting is ruled out because of other valid reasons.

(2) Before adjournment of the hearing, the persons who have appeared at the sitting may be examined and a decision may be made not to summon them to a sitting for the second time.

§ 94. Formalization of court orders

(1) The court formalizes the termination of misdemeanour proceedings, the compelling of attendance, any recusals, and the commissioning of expert assessment, by an order made in chambers according to the provisions of § 48 of this Code.

(2) Court orders not mentioned in subsection 1 of this section are formalized as procedural documents, which are included in the misdemeanour file, or are made orally and recorded in the minutes of the sitting.

Division 3 Implementation of Hearing the Misdemeanour Case

§ 95. Opening the hearing of a misdemeanour case

The district judge opening the hearing of a misdemeanour case:

- 1) announces the name of the case to be heard;
- 2) ascertains who, of the persons summoned, has appeared at the sitting, establishes their identity and verifies the authority of the defence counsel and of any representatives;
- 3) ascertains whether the party or parties to the proceedings before the court as well as any witnesses, interpreters or translators and experts who have not appeared have received the summons;
- 4) implements the joinder to the proceedings of any interpreters or translators, experts and witnesses following the provisions of criminal procedure;
- 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 requests or any applications for recusal that they have and deals with those requests and applications.

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

Division 4 Examination of Case in Court

§ 96. Commencement of examination of case in court

(1) The judge announces the commencement of examination of the case in court and invites the body to conduct the out-of-court proceedings 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 the proceedings and asks whether they admit having committed the misdemeanour.

§ 97. Rules for examination of evidence

The judge hears the submissions of the parties subject to the proceedings concerning the sequence in which the evidence is to be examined and makes an order concerning that sequence, which is recorded in the minutes of the sitting.

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

- (1) The examination of the person subject to the proceedings commences by the judge inviting them to state their account of the circumstances that served as the basis for the making of the misdemeanour investigation report.
- (2) The official of the body to conduct the out-of-court proceedings and the defence counsel may put questions to the person subject to the proceedings after they have made their statement.
- (3) The court has the right to put questions to the person subject to the proceedings at any stage of examination of the case in court.
- (4) The person subject to the proceedings has the right to put questions to the other party to proceedings before the court throughout the course of examination of the case in court.
- (5) If the case is heard without the presence of the person subject to the proceedings, the judge makes known any prior statement given by the person and the substance of their written applications.

§ 99. Rules for examination of witnesses

- (1) Witnesses are 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 the 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 body to conduct the out-of-court proceedings, the person subject to the proceedings and the defence counsel.
- (4) Where a witness has been summoned to the court at the request of a party subject to the proceedings, that party is the first to examine the witness.
- (5) Questions may be put to the witness to clarify and add to 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 the right to examine the witness at any stage of examination of the case in court.
- (6) The judge may, on their own initiative or at the request of a party subject to the proceedings, 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 examination of the case in court and may not leave without the permission of the judge.
- (8) If a witness does not appear at the hearing of the case, the district judge may disclose the statement made by the witness in the 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 proceedings before the court who participate in the hearing of the case and, if necessary, to any experts and witnesses.

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

- (1) Physical evidence may be inspected at any stage of examination of the case in court on the initiative of the judge or at the request of the parties to proceedings before the court. In relation to the inspection, representations may be made to the court by the parties and statements provided by the person subject to the proceedings.
- (2) The judge may conduct an on-site inspection of the scene of the misdemeanour and of any physical evidence which it is not possible to bring to court. The inspection is conducted by the judge in the presence of the parties to proceedings before the court and, if necessary, of the relevant witnesses or experts.
- (3) The course and results of the inspection are recorded in the minutes of the sitting.

§ 102. Expert assessment in the hearing of misdemeanour case

(1) The judge may, of their own initiative or at the request of a party to proceedings before the court, order an expert assessment in the case.

(2) When participating in the hearing of the misdemeanour case, the expert may examine any evidence necessary for the performance of their assessment and, with the permission of the body to conduct the proceedings, put questions to the parties to proceedings before the court and to any witnesses concerning any circumstances relevant to the performance of the assessment.

§ 103. Completion of examination of case in court

(1) After examination of the entirety of the evidence in the misdemeanour case, the judge asks the parties to proceedings before the court whether they request the addition of any further items to the results of examination of the case in court.

(2) The court, by order, resolves any requests that are submitted.

(3) After the performance of the necessary additional procedural operations, the judge declares the examination of the case in court to have been completed.

Division 5 Closing Arguments

§ 104. Rules for closing arguments

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

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

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

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

Division 6 Minutes of Court Sittings

§ 105. Taking minutes of the sitting

(1) Minutes are taken of the sitting if a witness or expert is examined at that sitting or if this is requested by a party to proceedings before the court. If minutes are not taken of a sitting, the requests of the parties must appear in the judgment.

(2) The minutes set out:

- 1) the date and place of the sitting, and the time of its beginning and of its end;
- 2) the name and composition of the court;
- 3) the names of the parties to proceedings before the court, of the clerk of the sitting and of any interpreters or translators and of experts;
- 4) the name of the misdemeanour case being heard;
- 5) explanation of their rights and obligations to the parties to proceedings before the court 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 declarations or requests, and their resolutions;
- 8) the titles of the orders made at the sitting;
- 9) the requests made by the parties in their closing arguments;
- 10) the making of the judgment or order in chambers;
- 11) the time of pronouncement of the judgment or order, and explanation of the rules for appealing these;
- 12) the date when the decision becomes available at the court for the parties to proceedings before the court;
- 13) waiver of the right of appeal, notified at the time of pronouncement of the judgment.

(3) The judge and the clerk of the sitting sign the minutes within three days following the sitting. Any amendments made to the minutes must be certified by the signatures of the judge and of the clerk.

§ 106. Observations concerning minutes of the sitting

(1) The parties to proceedings before the court have the right to submit their observations concerning the incorrectness or inaccuracy of the minutes of the sitting within three days following the signing of those minutes. The observations are considered by the judge who, if they agree with those observations, rectifies the minutes of the sitting, any rectifications being certified by the signatures of the judge and of the clerk of the sitting.

(2) If the judge does not agree with the observations submitted, they make an order ruling the observations to be incorrect. The party who submitted the observations has the right to restate these in an appeal filed against the court's decision.

Division 7 Decisions

§ 107. Decisions 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 custodial detention or, as the principal sentence or as an ancillary sanction, withdrawal of the entitlement to drive a vehicle or, as an ancillary sanction, withdrawal of the entitlement to access state secrets and classified information of foreign states, or the entitlement to process such secrets and information, or disqualifies the person subject to the 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 for in clause 1 of subsection 1 of § 29 and in § 30 of this Code.

(2) Where the grounds provided for in 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 enters a judgment or order by which it terminates misdemeanour proceedings concerning a juvenile 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 subject to the 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 agencies in the proceedings as a party subject 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 responsible for the area.

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

§ 108. Issues to be resolved when rendering judgment

The following are ascertained in order to enter 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 description of the misdemeanour: the title, section, subsection and clause of the relevant statute;

3) whether the misdemeanour was committed by the person subject to the proceedings;

4) the unlawfulness and culpability of the act;

5) whether any mitigating or aggravating circumstances are present;

6) the type and term or rate of the sentence or order;

7) the manner of dealing with any physical evidence and with any other objects taken into custody as part of the proceedings;

8) whether confiscation is to be ordered;

9) whether the sentence or order 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 juvenile order provided for in § 87 of the Penal Code is to be made;

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

11) how to resolve any requests seeking compensation for damage caused in the proceedings according to the Compensation for Damage Caused in Offence Proceedings Act.

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

§ 109. Introductory part of the court's judgment

The introduction of the judgment sets out:

- 1) that the judgment is made in the name of the Republic of Estonia;
- 2) the place and time of entering the judgment;
- 3) the name of the court to enter the judgment, the given name and surname of the judge, the given name and surname the courtroom clerk, of the official of the body to conduct the out-of-court proceedings, of the defence counsel and of any interpreters or translators, who took part in the sitting at which the case was heard;
- 4) where the person subject to the 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 the 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 heard by the court.

§ 110. Body of the judgment

The body of the judgment sets out:

- 1) the time and place of commission of the misdemeanour, the circumstances that were found to be proven at the sitting convened in the case, and the supporting evidence;
- 2) any circumstances that were not proved at the sitting, 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 sitting, 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 description of the misdemeanour at the sitting convened in the case, and for the imposition of a sentence that falls below the minimum tariff prescribed by the relevant statute;
- 7) the provisions of this Code under which judgment is given in the case.

§ 111. Concluding part of the judgment

The concluding part of the judgment sets out:

- 1) the given name and surname of the natural person, or the name of the legal person, who is subject to the proceedings;
- 2) the misdemeanour or misdemeanours of which the person subject to the proceedings is convicted, and the title, section, subsection and clause of the relevant statute under which the conviction is entered;
- 3) the rate of any fines imposed on the person subject to the proceedings or, where subsection 1 of § 63 of the Penal Code is applied, the rate 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 rate of the fine for each separate misdemeanour;
- 4) the term of custodial detention imposed on the person subject to the proceedings and the time when they are to start serving their detention;
- 4¹) the term for which the entitlement of the person subject to the proceedings to drive a vehicle is withdrawn, as the principal or as an ancillary sanction, or the term for which their entitlement to access state secrets and classified information of foreign states, or their entitlement 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 custodial detention as part-terms staggered in time;
- 6) the ruling concerning any confiscation in the case;
- 7) how to deal with any physical evidence and any other objects taken into custody in the case;
- 8) the ruling concerning the costs of the case;
- 8¹) a determination concerning any requests seeking compensation for damage caused in the proceedings according to the Compensation for Damage Caused in Offence Proceedings Act; [RT I, 20.11.2014, 1 – entry into force 01.05.2015]
- 9) the rules and time limit for appealing the judgment;
- 10) information stating that the fine has to be paid into the relevant bank account within the time limit for appealing the judgment, counted from the day on which the judgment becomes available at the court for the parties to the proceedings to read, and the name and code of the bank and the name of the holder and the number of the account into which the fine has to be paid; [RT I 2003, 26, 156 – entry into force 21.03.2003]
- 11) information stating that the judgment will be enforced if the time limit for appealing the judgment, counted from the day on which the judgment becomes available in court for the parties to the proceedings to read,

has elapsed without the person subject to the proceedings having paid the fine in full or without them or their defence counsel having filed an appeal against the judgment.
[RT I 2003, 26, 156 – entry into force 21.03.2003]

§ 112. Order to terminate misdemeanour proceedings

(1) Where the grounds provided for in 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 sets out the determination made concerning any requests seeking compensation for damage caused in the proceedings according to the Compensation for Damage Caused in Offence Proceedings Act.
[RT I, 20.11.2014, 1 – entry into force 01.05.2015]

(2) The parties subject to the proceedings as well as any non-parties whose interests by the order provided for in subsection 1 of this section concerns may receive a copy of that order.

§ 113. Pronouncement of the court's judgment or of its concluding part; explanation of the right of appealing 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 concluding 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 the proceedings is not proficient in the language of the proceedings, they are provided a translation of the concluding part of the judgment and of the explanations of the judge.

(4) Having pronounced a judgment or the concluding part of a judgment, the judge:

1) where only the concluding part of the judgment was pronounced, announces the day on which the judgment will be available at the court for the parties to the proceedings to read and on which it will be possible for the parties to receive copies of the judgment; the announcement is recorded in the minutes of the sitting or, if minutes are not taken at the sitting, as a note on the concluding part of the judgment;

2) explains the rules for appealing the judgment according to subsection 3 of § 137 of this Code as well as the right of the parties to the proceedings to directly waive the right of appealing to the circuit court of appeal. Any waivers are recorded in the minutes of the sitting or, if minutes are not taken at the sitting, as a note on the concluding part of the judgment, and certified by having the person who makes the waiver affix their signature;

3) explains that if a party to the proceedings intends to exercise their right of appealing to the circuit court of appeal, the party must notify this to the district court in writing within seven days following pronouncement of the concluding part of the judgment, except in the situation provided for in subsection 1¹ 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 decision to any party to the proceedings who did not attend the pronouncement of that decision.

(6) If, in accordance with the rules provided in clause 2 of subsection 4 of this section, all parties to proceedings before the court have waived their right of appealing to the circuit court of appeal or if, within the time limit provided in clause 3 of subsection 4 of this section, none of the parties has notified the court of their wish to exercise that right, only the information provided for in §§ 109 and 111 of this Code is set out in the judgment.

(7) The judgment or the concluding 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 BEFORE DISTRICT COURTS

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

Division 1 Filing an Appeal with District Court Against Determination of the Body to Conduct the Out-of-Court Proceedings

[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 subject to the proceedings has the right to file an appeal with the district court against the following determinations of the body to conduct the out-of-court proceedings:

- 1) a determination made in accordance with subsection 2 of § 55 of this Code under expedited procedure;
- 2) a determination 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 determination made in accordance with subsection 1 of § 73 of that Code under regular procedure, which orders confiscation of a means of transport that belongs to the non-party.]

(2) It is not possible to appeal a determination to caution a person, or a notice of fine, made respectively in accordance with § 54 and § 54² of this Code.

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

(3) An appeal against a determination of the body to conduct the out-of-court proceedings which is made under expedited procedure and which is provided for in clause 1 of subsection 1 of this section is filed with the district court within 15 days following receipt of the determination by the person subject to the proceedings.

(4) An appeal against a determination of the body to conduct the out-of-court proceedings which is made under regular procedure and which is provided for in clause 2 of subsection 1 of this section is filed with the district court within 15 days following the day on which the determination became available for the parties subject to the proceedings to read in that body's premises.

(5) During the time limit for the appeal, the misdemeanour file is kept at the body to conduct the out-of-court proceedings and is not released to anybody. The parties subject to the proceedings may read the misdemeanour file and copy material from the file by hand or request that copies be made, for a charge, of any materials in the file.

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

§ 115. Requirements for appeal against the determination of the body to conduct the out-of-court proceedings

(1) An appeal against the determination made by the body to conduct the out-of-court proceedings is filed in writing and sets out:

- 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 and the address, telephone number and email address of the seat of the counsel;
- 5) the name and address of the body to conduct the out-of-court proceedings which made the determination;
- 6) the number and date of the determination and the given name and surname of the natural person, or the name of the legal person, who is subject to the proceedings and in whose respect the determination that was made is being contested;
- 7) the part of the determination that is contested;
- 8) the substance of and reasons for the requests made by the appellant;
- 9) the persons whose summoning to the sitting is requested, and the evidence whose examination in court is needed according to the appellant's request.

(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 set out the following in their appeal:

- 1) whether they wish to participate in the sitting to be held in the case;
- 2) if they do not have a defence counsel, whether they wish that one take part in the 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 determination of the body to conduct the out-of-court proceedings against which the appeal is filed;
- 2) any evidence relied on;
- 3) the names and addresses of any witnesses whose examination is requested;
- 4) other documents that the appellant considers necessary.

§ 116. Requirement to deliver the misdemeanour file and sending the file to the district court

(1) Having received an appeal against a determination made, 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, by the body to conduct the out-of-court proceedings, the district court without delay addresses a requirement to that body to deliver the misdemeanour file to the court.

(2) When the district court requires this, the body to conduct the out-of-court proceedings sends the misdemeanour file to that court without delay.

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

Division 2 Preliminary Procedure in Court

§ 117. Acts under preliminary procedure

(1) In preliminary procedure, the district judge:

- 1) verifies jurisdiction in the case and compliance with the requirements of §§ 114 and 115 of this Code;
- 2) halts proceedings on the appeal or dismisses it on the grounds provided for in § 118 of this Code;
- 3) terminates misdemeanour proceedings in the case on the grounds provided for in § 119 of this Code, or
- 4) adjudicates the matter by written procedure in accordance with § 120 of this Code.

(2) If the appeal is not decided in accordance with clauses 2–4 of subsection 1 of this section, the judge ascertains the persons to be summoned to the sitting, ascertains, based on the appeal, the scope of the hearing of the case in court and the evidence to be examined in the case, resolves any requests made in the appeal, sends copies of the appeal to the parties to proceedings before the court and, following § 121 of this Code, commits the case for hearing.

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

§ 118. Halt of proceedings on the appeal and dismissal of appeal during preliminary procedure

(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 halt proceedings on the appeal and set a time limit for the appellant to cure the 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 request 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 the 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 in subsection 1 of this section;
- 4) the appeal is discontinued before the beginning of the sitting convened in the case.

[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 annul the determination of the body to conduct the out-of-court proceedings without convening a sitting in the case or summoning the parties subject to the 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, the 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 subject to the proceedings. Any non-parties whose interests the order concerns may receive a copy of the order.

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

§ 120. Dealing with the case by written procedure

(1) A district judge may deal with an appeal by written procedure without holding a sitting in the case and make a decision in accordance with the provisions of § 132 of this Code if the court has sent a copy of the appeal to the other party to the 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 wish to attend the sitting.

(2) If, during written procedure, the district court finds that the case should be adjudicated at a sitting, the court directs the holding of the sitting.

(3) If the party to proceedings before the court submits, together with their appeal, new evidence to the district court and the court accepts the evidence, the case may be dealt with by written procedure only if the parties do not request a sitting to be convened to examine such new evidence.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 121. Committing the appeal for hearing in court by the district court

(1) The order of the district court committing the appeal for hearing in court sets out:
1) the place and time of the sitting;
2) the given name and surname of any natural person, or the name of any legal person, to be summoned to the sitting;
3) whether the case is to be heard at a public sitting or *in camera*;
4) appointment of the defence counsel in accordance with § 22 of this Code;
5) the resolutions to any requests made.

(2) It is not possible to appeal the order mentioned in subsection 1 of this section with respect to its denial of a request but the request may be repeated during the hearing of the case in court.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 122. Summoning to the sitting

The parties to proceedings before the court are summoned to the sitting by a summons following the provisions of §§ 40 and 41 of this Code.

Division 3 Hearing of Appeal in Court by District Court

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

§ 123. Rules for hearing of appeal in court

(1) The hearing of the appeal in court by the district court is governed by the provisions of this Code that apply to the hearing of misdemeanour cases in court, without prejudice to any special rules provided in Divisions 3 and 4 of this Chapter.

(2) The district court hears the misdemeanour case in its entirety, regardless of the scope of the appeal that has been filed, verifying the factual and legal circumstances that served as the basis for the determination made by the body to conduct the out-of-court proceedings.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 124. Implementation of the sitting convened in the case

(1) The court announces the case to be heard and the name of the person who filed the appeal.

(2) The court commences the hearing of the appeal in court by performing the acts provided for in § 95 of this Code.

§ 125. Adjourning the hearing of the appeal

(1) At the reasoned request of a party to proceedings before the court, the district judge, basing their assessment on § 42 of this Code, may adjourn the hearing of the appeal once for a period of up to one month. The district judge may also adjourn the hearing of the appeal for the same period if, when hearing the appeal, the need emerges to require delivery of additional evidence.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

(2) The court may adjourn the hearing of the appeal at the request of a party subject to the proceedings or on its own initiative for the period that it takes the Supreme Court to adjudicate 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 effect 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 body to conduct the out-of-court proceedings in hearing of appeal in court

(1) Participation of the appellant and of the body to conduct the out-of-court proceedings in the hearing of the appeal in court is mandatory if the court deems it necessary.

(2) If the appellant does not appear for the hearing of their appeal although they have been notified of the obligation to attend the hearing of the appeal in court in the summons sent to them and the hearing of the appeal is not adjourned in accordance with § 125 of this Code, the court makes an order dismissing the appeal.
[RT I, 05.12.2017, 1 – entry into force 15.12.2017]

(2¹) If, in the situation described in subsection 2 of this section, the appellant's defence counsel is in attendance at the hearing of the case, the court invites them, if they wish, to make an application to have the appeal heard without the appellant being in attendance. If such an application is denied, the hearing of the appeal 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 body to conduct the out-of-court proceedings does not preclude the hearing of the appeal in court.

§ 127. Discontinuance of appeal

(1) The appellant has the right to discontinue the appeal partially or in its entirety until the end of its hearing in court.

(2) The declaration by which the appeal is discontinued is filed with the district court in writing or is made orally at the sitting convened in the case. Where the declaration is in writing, it is placed in the misdemeanour file, and where the declaration is made orally, it is recorded in the minutes of the sitting and the appellant is required to affix their signature to it.

(3) The person subject to the proceedings has the right to discontinue an appeal filed by their defence counsel if participation of the counsel in the misdemeanour proceedings is not mandatory.

(4) If the district court establishes that substantive law has been incorrectly applied in the case or a material violation of the law of misdemeanour procedure has occurred, whereby the situation of the person subject to the proceedings has been aggravated, the court does not accept the discontinuance.

(5) If the appeal is discontinued before the beginning of its hearing in court, it is dismissed under the corresponding order of the court. If the appeal is discontinued during its hearing in court, the proceedings are terminated by an order.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 128. Rules for examination of the appeal in court

(1) The court reports the part of the determination made by the body to conduct the out-of-court proceedings that has been appealed, the substance of and the reasons for the request made in the appeal, and the substance of any other documents submitted to the court with the appeal.

(2) The court explains to the appellant their right to discontinue the appeal according to § 127 of this Code and the consequences of such a discontinuance, and asks whether they wish to proceed with the appeal or to discontinue it partially or in its entirety.

(3) When examining any evidence annexed to the appeal, the court takes guidance from §§ 97–103 of this Code.

§ 129. Concluding examination of the appeal in court

(1) After examining the entirety of the evidence in the case, the district judge asks the persons participating in the hearing of the case in court whether they have any requests.

(2) The court makes an order to resolve any requests that have been made.

(3) After resolving the requests, the district judge concludes the examination of the appeal in court and invites the parties to present their closing arguments.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 130. Closing arguments at hearing of appeal in court

(1) When closing arguments are to be presented, the person to speak the first is the appellant, followed by the other parties to the 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 depart from the facts established during examination of the appeal in court.

(3) When the closing arguments have been presented, the district judge announces the time of pronouncement of the decision in the case.

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

§ 130¹. Audio recording of the sitting

(1) The sittings convened in the case are audio recorded.

(2) It is allowed to forgo recording the sitting if:

(1) it becomes evident before or during the sitting that recording is technically impossible and if the court is convinced that it is expedient, and in line with the interests of the parties to the proceedings, to hold the sitting without it being recorded;

2) the sitting is held outside of court premises;

3) the sitting concerned is a sitting convened for the purpose of pronouncement of the court's decision;

4) the sitting concerned is a sitting of the Supreme Court.

[RT I, 31.05.2018, 2 – entry into force 01.01.2019]

§ 131. Minutes of the sitting

Following the provisions of subsections 2 and 3 of § 105 of this Code, minutes of the sitting are drawn up to record the hearing of the appeal in court.

Division 4 Rendering Judgment

§ 132. Decisions of district court on adjudication of appeals

The district court may, by judgment:

1) uphold the determination of the body to conduct the out-of-court proceedings and deny the appeal;

2) annul the determination of the body to conduct the out-of-court proceedings in full or in part and enter a new determination, provided this does not aggravate the situation of the person subject to the proceedings;

3) annul the determination of the body to conduct the out-of-court proceedings and terminate misdemeanour proceedings in the case on the grounds provided for in § 29 or § 30 of this Code.

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

§ 133. Issues to be resolved when adjudicating the appeal

In order to adjudicate the 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 the proceedings is accused actually occurred;

3) whether the act was committed by the person subject to the proceedings;

4) whether the act is a misdemeanour and whether it has been attributed the correct legal description;

5) whether the sanction for the misdemeanour was imposed by a body to conduct out-of-court proceedings that is vested with the corresponding powers;

6) whether the body to conduct the out-of-court proceedings in the case has acted in compliance with the law of misdemeanour procedure;

7) whether the sanction was imposed on the person subject to the 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 for in § 30 of this Code;

9) whether misdemeanour proceedings in the case should be terminated and a juvenile order provided for in § 87 of the Penal Code made;

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

10) how to resolve any requests seeking compensation for damage caused in the proceedings according to the Compensation for Damage Caused in Offence Proceedings Act.

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

§ 134. Judgment of 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 in 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 sets out:
1) the determination appealed;
2) the substance of the determination made in the out-of-court proceedings, to the extent necessary for the giving of judgment in the case, and the request of the appellant.

(3) The concluding part of the district court's judgment sets out the decision provided for in clauses 1–3 of § 132 of this Code.

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

§ 135. Pronouncement of the judgment or of the concluding part of the judgment and explanation of right of appeal in cassation

(1) The judge pronounces the judgment at the time announced according to subsection 3 of § 130 of this Code.

(2) The court may draw up the concluding 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 the proceedings is not proficient in the language of the proceedings, the concluding part of the judgment and the explanations of the judge are translated for them.

(4) On pronouncement of the judgment or of its concluding part, the judge:

1) where only the concluding part of the judgment is pronounced, announces the date on which the judgment becomes available at the court for the parties to the proceedings to read and on which the parties may receive copies of the judgment; a note concerning the announcement is recorded in the minutes of the sitting or, if minutes are not taken at the sitting, on the concluding part of the judgment;

2) explains the procedure for appealing the judgment according to §§ 155 and 156 of this Code and the right of the parties to the proceedings to directly waive the right of appeal in cassation. Any waivers are recorded in the minutes of the sitting and certified by the signature of the person who made the waiver;

3) if a party to the proceedings wishes to exercise the right of appeal in cassation, the party must notify this to the district court in writing within seven days following the pronouncement of the concluding part of the judgment, except in the situation described in subsection 1¹ 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 the decision to any party to proceedings before the court who did not attend the pronouncement of that decision.

(6) If all of the parties subject to the proceedings waive their right of appeal in cassation 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 wish to exercise the right of appeal in cassation, only the information provided for in §§ 109 and 111 of this Code will be set out in the judgment.

(7) The judgment or the concluding part of the judgment are placed in the misdemeanour file.

(8) It is not possible to contest the judgment of the district court under the procedure for appealing to circuit courts of appeal.

(9) The judgment of the district court may be contested under the procedure for appeal in cassation in accordance with Division 1 of Chapter 14 of this Code.

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

Chapter 13 PROCEDURE FOR APPEALS TO CIRCUIT COURTS OF APPEAL

Division 1 Filing the Appeal with a Circuit Court of Appeal

§ 136. Right of appealing to the circuit court of appeal

(1) The parties to the proceedings have the right to file an appeal against the judgment of the district court rendered under subsection 1 of § 107 of this Code upon hearing their misdemeanour case.

(2) It is not possible to file an appeal with a circuit court of appeal against a judgment that has been rendered by the district court under § 132 of this Code on hearing the relevant appeal.

(3) For the purposes of the procedure for appealing to the courts of appeal, the party to the proceedings before the court who files the appeal is the appellant.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 137. Time limit for appealing to the circuit court of appeal

(1) If a party to the proceedings before the court wishes to exercise their right of appealing 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 concluding part of the judgment, except in the situation described in subsection 1¹ of this section.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(1¹) If a party to the proceedings before the court has, within the time limit mentioned in subsection 1 of this section, provided notification of their wish to exercise their right of appealing 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 wish to exercise it.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(2) Where a party to the proceedings before the court wishes to exercise their right of appealing 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 the proceedings to read.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

(4) If, when adjudicating 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 the pronouncement of the decision made 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) At the request of the appellant, the court may reinstate the time limit for appealing 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 appealing to the circuit court of appeal is resolved by an order of the circuit court of appeal, which is not subject to further appeal.

(7) The order by which the time limit for the appealing 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. Requirement to deliver the misdemeanour file and the right to read the file

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

(1) On receiving an appeal, the circuit court of appeal, without delay, issues a requirement to the district court that conducted proceedings in the case to deliver the misdemeanour file. On receiving the requirement to deliver the misdemeanour file, the district court sends that file to the circuit court of appeal without delay.

(2) The parties to the proceedings may read the misdemeanour file at the district court until the file is sent to the circuit court of appeal; the parties may also make extracts from the file by hand and request that copies be made, for a charge, of any 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) The appeal to the circuit court of appeal is filed in writing and sets out:

- 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 the proceedings or the name of the legal person subject to the proceedings, with regard to whom the judgment is contested;
- 7) the part of the judgment that is contested;
- 8) the substance of and reasons for the requests of the appellant;
- 9) the persons whose summoning to the sitting is requested, and the evidence that the person filing the appeal considers it is 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 request for its examination was denied by the district court;
- 3) any evidence that was not presented in the district court, provided that reasons are also stated which prevented such evidence from being presented earlier. If the appellant requests the examination of 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 set out:

- 1) whether they wish to attend the sitting to be held in the case;
- 2) if they do not have a defence counsel, whether they wish that one take part in the 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 proceedings before the court.

(5) The appeal to the circuit court of appeal is signed by the person who files 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 is requested;
- 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 the appeal to the parties to the proceedings within three days following its receipt.

(2) The parties to the proceedings have the right to:

- 1) read the misdemeanour file at the circuit court of appeal and make extracts by hand from any written evidence in the file as well as request that the court's office make copies of such evidence for a charge;
- 2) file written objections to the appeal with the circuit court of appeal until the beginning of the sitting convened in the case.

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

Division 2

Preliminary Procedure Before the Circuit Court of Appeal

§ 141. Acts of preliminary procedure in the circuit court of appeal

(1) During the preliminary procedure, the judge:

- 1) verifies the right of appeal, the time limit for appealing to the circuit court of appeal and compliance of with the requirements concerning appeals according to §§ 136, 137 and 139 of this Code;
- 2) halts proceedings on the appeal on the ground provided in subsection 1 of § 142 of this Code;
- 3) dismisses the appeal on the ground provided in subsection 2 of § 142 of this Code;
- 4) under the provisions of § 143 of this Code, returns the misdemeanour case to the district court to be heard anew;
- 5) terminates misdemeanour proceedings in the case on the ground provided in subsection 1 of § 144 of this Code;
- 6) adjudicates the case by written procedure in accordance with § 145 of this Code.

(2) If the appeal is not dealt with following clauses 2–6 of subsection 1 of this section, the judge ascertains the persons to be summoned to the sitting to be held in the case, the scope for the hearing of the case in court based on the appeal, and the evidence to be examined, resolves any requests made in the appeal, summons the parties to the proceedings to the sitting in accordance with §§ 40 and 41 of this Code, and commits the case for hearing in accordance with § 121 of this Code.

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

§ 142. Halt of proceedings on the appeal to the circuit court of appeal 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 appeal judge makes an order by which they halt proceedings on the appeal and set a time limit for the appellant for cure its defects.

(2) The appeal 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 expiration of the time limit provided in subsection 3 of § 137 of this Code and no request 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 the 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;

3¹) 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 wish 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 in subsection 1 of this section;

5) the appeal is discontinued before the beginning of the sitting to be held in the case.

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

§ 143. Annulment of judgment during preliminary procedure on ascertaining that a material violation of the law of misdemeanour procedure has occurred and return of the misdemeanour case to the district court to be heard anew

(1) If the appeal judge ascertains that a material violation of the law of misdemeanour procedure has occurred, they may annul the judgment of the district court by an order based solely on the appeal, without convening a sitting and without summoning the parties to the proceedings, and return the misdemeanour case to the district court to be heard anew by another panel.

(2) Within three days following the drawing up of the order mentioned in subsection 1 of this section, a copy of the order has to be delivered against signed receipt, or sent, to the parties to the proceedings whose interests it concerns.

[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 appeal judge finds that the misdemeanour proceedings have not been terminated although circumstances that, under § 29 of this Code, preclude such proceedings are present, they may annul the judgment of the district court by an order, without convening a sitting or summoning the parties to the proceedings, 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 subject to the 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. Adjudication of the case by written procedure

(1) The appeal judge may adjudicate an appeal by written procedure without convening a sitting and give a decision 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 the proceedings and ascertained their position concerning the appeal, and the parties to the proceedings have, in the appeal or in the response to the appeal, provided notification that they do not wish to attend the sitting.

(2) The position of the other party to the proceedings does not need to be ascertained following the rules provided in subsection 1 of this section if the circuit court of appeal makes the decision 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 adjudicated at a sitting, the court directs the holding of the sitting.

(4) If a party to the proceedings submits new evidence to the circuit court of appeal together with the appeal and the court accepts such evidence, the case may be adjudicated by written procedure only if the parties to the proceedings do not request that a sitting be convened for examining the evidence.

Division 3

Hearing the Case in Court Before the Circuit Court of Appeal

§ 146. Rules and time limit for hearing the case in court before the circuit court of appeal

(1) When conducting the hearing of the misdemeanour case in court, the circuit court of appeal takes guidance from §§ 97–C0#3F103 and 124–C0#3F131 of this Code, without prejudice to any special rules provided in this Division.

(2) The circuit court of appeal hears the misdemeanour case within the scope of the appeal filed, except if it becomes evident that a material violation of the law of misdemeanour procedure has occurred or that substantive law has been incorrectly applied, which has aggravated the situation of the person subject to the proceedings.

(3) If it becomes evident that a material violation of the law of misdemeanour procedure has occurred or that substantive law has been incorrectly applied, which has aggravated the situation of the person subject to the proceedings, the circuit court of appeal extends the scope of the hearing of the misdemeanour case to all persons subject to the proceedings concerning that misdemeanour regardless of whether or not a corresponding appeal has been filed in their respect.

(4) The parties to the proceedings may not depart from the scope of the appeal at the hearing of that appeal in court.

§ 147. Powers of the circuit court of appeal

(1) The circuit court of appeal may, by judgment:

- 1) uphold the judgment of the district court, and deny the appeal;
- 2) substantively uphold the judgment of the district court, inserting corrections of detail;
- 3) amend the body of the district court's judgment by removing a circumstance or circumstances presented in that part of the judgment;
- 4) annul the judgment of the district court in its entirety or in part and enter a new judgment on the basis of the provisions of § 151 of this Code.

(2) The circuit court of appeal may, by order:

- 1) annul the judgment of the district court on the grounds provided for in § 148 of this Code and return the misdemeanour case to the district court to be heard anew by another panel;
- 2) annul the judgment of the district court in its entirety or in part and terminate misdemeanour proceedings in the case on the basis of the provisions of § 29 or 30 of this Code.

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

§ 148. Grounds for annulment of judgments under the procedure for appealing to the circuit court of appeal

The circuit court of appeal annuls the judgment given in the district court on the following grounds:

- 1) partiality or insufficiency of the proceedings;
- 2) incorrect 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 other measures ordered in the case to the gravity of the misdemeanour or to the person subject to the proceedings.

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

§ 149. Incorrect application of substantive law

Substantive law has been applied incorrectly if:

- 1) a provision 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 in § 29 of this Code, misdemeanour proceedings have not been terminated;
- 2) the decision in the misdemeanour proceedings was made by a body not vested by law with authority to conduct those proceedings;
- 3) the decision has been made with regard to a person who has not been notified of the place and time of the hearing of the case;
- 4) the defence counsel appointed to represent the person subject to the proceedings in accordance with the rules provided in § 22 of this Code did not take part in the proceedings;
- 5) the body to conduct the proceedings has not signed the determination;
- 6) no misdemeanour investigation report has been drawn up in the case, if one is required under this Code;

7) the determination of the body to conduct the proceedings has not been substantiated, if substantiation is required under this Code;

8) the conclusions in the concluding part of the determination or judgment of the body to conduct the proceedings do not correspond to the facts that are required to be proven in the case, as these have been established;

9) the misdemeanour case has been heard in a language in which the person subject to the proceedings is not proficient, without the participation of an interpreter or translator;

10) there are no minutes of the hearing of the misdemeanour case or of the sitting held in the case, although the taking of the minutes is prescribed by this Code, or the minutes have not been signed by the judge or by the clerk of the sitting.

(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 an unlawful or unfounded judgment.

§ 151. Entry of new judgment in the circuit court of appeal

(1) The circuit court of appeal may, by judgment, based on the appeal or, where incorrect application of substantive law has been ascertained, regardless of the substance of the appeal:

1) annul 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) admit that the person subject to the proceedings is not guilty of some of the misdemeanours and impose a lighter sentence, or uphold the sentence;

3) declare the person subject to the proceedings convicted of a lesser misdemeanour and impose a lighter sentence, or uphold the sentence;

4) annul the sentencing part of the judgment of the district court and impose lighter sentence on the person subject to the proceedings.

(2) If the circuit court of appeal ascertains that a provision of substantive law has been incorrectly applied, the court must consider the misdemeanour case also with regard to the other persons subject to the proceedings in that case regardless of whether they have filed an appeal.

(3) Based on an appeal by the body to conduct the out-of-court proceedings, the circuit court of appeal may:

1) declare the person subject to the 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 uphold the sentence;

2) annul the judgment of the district court concerning termination of misdemeanour proceedings in the case and enter a judgment of conviction;

3) annul the judgment of the district court with respect to the sentence imposed and impose a more severe sentence on the person subject to the proceedings.

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

§ 152. Returning the misdemeanour case to the district court to be heard anew

If a material violation of the law of misdemeanour procedure is ascertained in the course of the hearing of the case in court and the violation is such as to inevitably lead to annulment of the judgment of the district court, the circuit court of appeal makes an order by which it annuls the judgment of the district court and returns the misdemeanour case to the district court to be heard anew 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 takes guidance from § 107 and §§ 109–111 of this Code, without prejudice to the special rules provided in 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 sets out:

1) the judgment appealed against;

2) the substance of the appealed part of the judgment of the district court, and the requests of the appellant.

(3) The concluding part of the judgment of the circuit court of appeal sets out the conclusions of the court according to the provisions of §§ 147 and 151 of this Code.

(4) If the circuit court of appeal upholds 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 set out in the body 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 concluding 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. Pronouncement of judgment of the circuit court of appeal or of its concluding part; explanation of right of appeal in cassation

(1) Having heard the closing arguments, the circuit court of appeal announces the hour at or day on which its decision will be available for the parties to the proceedings at the court.

(2) Pronouncement of the judgment of the circuit court of appeal or of its concluding 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 CASSATION PROCEDURE

Division 1 Appeal to Supreme Court

§ 155. Right of appeal in cassation

(1) The right to file an appeal in cassation under the provisions of § 157 of this Code is enjoyed by:

1) a party to the proceedings, against a judgment of the district court made under the provisions of § 132 of this Code;

2) a party to the proceedings, if the right of appealing to the circuit court of appeal has been exercised against them;

3) the parties to the proceedings, 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 file the appeal in cassation is enjoyed by the defence counsel of the person subject to the proceedings, provided the counsel is an advocate, by the body to conduct the out-of-court proceedings or by a representative of that body, provided they are an advocate.

(3) For the purposes of cassation proceedings, the appellant in cassation is the body to conduct the out-of-court proceedings who filed the appeal in cassation, or the advocate who represents the party to the proceedings that filed such an appeal.

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

§ 156. Time limit for cassation

(1) If a party to the proceedings before the court wishes to exercise their right of appeal in cassation, the party must notify this in writing to the district court or the circuit court of appeal within seven days following the pronouncement of the concluding part of the judgment, except in the situation described in subsection 1¹ of this section.

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

(1¹) If a party to the proceedings before the court has, within the time limit mentioned in subsection 1 of this section, provided notification of their wish to exercise their right of appeal in cassation, and has not waived it, the remaining parties have the right of appeal in cassation regardless of whether they themselves have provided notification of the wish to exercise that right.

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

(2) Where a party to the proceedings before the court wishes to exercise their right of appeal in cassation, 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 in cassation is filed with the Supreme 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]

(4¹) If, when adjudicating the misdemeanour case, the district court or the circuit court of appeal declares, in the concluding part of its judgment, a legislative or regulatory instrument which is to be applied in the case to be contrary to the Constitution and refuses to apply such an instrument, the time limit for filing the appeal in cassation starts to run from pronouncement, by the Supreme Court under constitutional review procedure, of its decision concerning the instrument.

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

(4²) The running of the time limit for cassation 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 resolving the application is made.

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

(5) If the time limit for cassation has been breached, the Supreme Court makes an order by which it returns the appeal in cassation without considering that appeal.

(6) At the request of the appellant in cassation, the Supreme Court may reinstate the time limit for cassation if the Court finds that the term 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]

(6¹) Reinstatement of the time limit or refusal to reinstate the time limit are formalized by an order of the Supreme Court.

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

§ 157. Grounds for cassation

The grounds for cassation are:

- 1) incorrect 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 in cassation

(1) An appeal in cassation is drawn up in a typed or word-processed form. An electronic copy of the appeal is annexed to the appeal.

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

(2) An appeal in cassation sets out:

- 1) the given name and surname of the appellant in cassation 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 gave the decision that is being contested, and the number and date of the decision;
- 3) the given name and surname, or name, of the party to the proceedings before the court in whose interests the appeal in cassation 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 in cassation relies on to show that substantive law has been incorrectly applied or that a material violation of the law of misdemeanour procedure has occurred;
- 5) any additional documents which the appellant in cassation considers necessary to submit in cassation proceedings in order to establish a material violation of the law of misdemeanour procedure;
- 6) the substance of and reasons for the requests of the appellant in cassation, the grounds for the appeal in cassation 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 in cassation.
- 8) the reasons supporting the need for oral procedure, if the appellant in cassation requests such a procedure.

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

(3) The following must be annexed to an appeal in cassation:

- 1) the power of attorney of the appellant in cassation, unless it already appears in the file;
- 2) copies of the appeal in cassation for the parties to the proceedings.

(4) The appeal in cassation is signed and the date of drawing up the appeal is noted on it by the appellant in cassation.

(5) The appellant in cassation may amend and supplement their appeal in cassation until the end of the time limit for cassation, including also to extend the appeal to the parts of the judgment that were initially not appealed against. Any amendments to the appeal in cassation are subject to the provisions governing appeals in cassation.

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

§ 159. Requirement to deliver the misdemeanour file and the right to read the file

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

(1) On receiving an appeal in cassation, the Supreme Court, without delay, issues a requirement to the district court or the circuit court of appeal that conducted proceedings in the case to deliver the misdemeanour file. On receiving the requirement to deliver the misdemeanour file, the district court or the circuit court of appeal sends that file to the Supreme Court without delay.

(2) The parties to the proceedings have the right to read the misdemeanour file at the district court or the circuit court of appeal until the file is sent to the Supreme Court.

(3) After the end of cassation proceedings, the Supreme Court returns the court file to the court that conducted proceedings in the case.

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

Division 2

Preliminary Procedure Before the Supreme Court

§ 160. Acceptance of appeal in cassation

(1) On receiving an appeal in cassation that conforms to the requirements, the Supreme Court sends a copy of the appeal to the party to the proceedings whose interests the appeal concerns and notifies the following to that party:

- 1) the time of reception of the appeal in cassation at the Court;
- 2) the obligation of the party to respond to the appeal in cassation 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 the proceedings to state their position concerning a specific issue.

(3) Within a reasonable period following the expiration of the time limit set for responding to the appeal in cassation the Supreme Court, based on the misdemeanour file and without summoning the parties subject to the proceedings, decides to accept the appeal in cassation or refuses to accept it.

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

(4) If an appeal in cassation is manifestly well-founded or manifestly unfounded, acceptance of the appeal may be dealt with without sending it to the other parties or before expiration of the time limit mentioned in subsection 3 of this section.

(5) An appeal in cassation is accepted if:

- 1) the submissions made in the appeal in cassation give reason to believe that the court has applied substantive law incorrectly or has materially violated the law of misdemeanour procedure;
- 2) the appeal in cassation contests the correctness of application of substantive law or requests annulment of a judgment due to material violation of the law of misdemeanour procedure, and a judgment of the Supreme Court is essential for uniform application of the relevant statute or for development of the law.

(6) Acceptance of the appeal in cassation or refusal to accept such an appeal are formalized by an order of the Supreme Court without stating the reasons for the acceptance or refusal.

(7) The outcome of resolving the request to accept an appeal in cassation is published on the website of the Supreme Court without delay, setting out the number of the case and the legal description of the misdemeanour that is the subject matter of the misdemeanour investigation report. Where a request to accept an appeal in cassation is filed under the *in camera* procedure, only the outcome of its resolution and the number of the case together with a reference to *in camera* proceedings are disseminated on the website. Refusal of acceptance on the ground that the appeal did not conform to the requirements provided by statute and was therefore returned is not published on the website. The particulars concerning the resolution of the request for acceptance of an appeal in cassation are removed from the website when 30 days have elapsed from publication of that resolution.

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

(8) Where the appeal in cassation 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 the proceedings if they do not have a defence counsel in the proceedings before the court.

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

(9) When it accepts an appeal in cassation, the Supreme Court may suspend, in its entirety or in part, the enforcement of the judgment given in the case by the district court on consideration of the appeal against the determination 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]

§ 160¹. Halt of proceedings on the appeal in cassation

If a defect precluding consideration of the appeal in cassation is found and it is manifest that the defect can be cured, the Court makes an order by which it sets the appellant in cassation a reasonable time limit to cure that defect and, for the time being, halts proceedings on the appeal.

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

§ 161. Dismissal of appeal in cassation in the Supreme Court

The Supreme Court makes an order by which it dismisses the appeal in cassation if:

- 1) the appeal is filed after expiration of the time limit for cassation provided in § 156 of this Code and no request for reinstatement of the time limit has been filed 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 in cassation;
- 3) the appellant in cassation has not cured the defects found in the appeal within the time limit 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 in cassation has not notified the district court or the circuit court of appeal in writing of their wish to exercise their right of appeal in cassation – unless notification is not mandatory;

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

- 5) the appeal is discontinued before the beginning of the sitting convened in the case.

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

§ 162. Notification of appeal in cassation

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

§ 163. Scrutinizing the appeal in cassation

A party to the proceedings before the Supreme Court has the right, to be exercised by an advocate representing the party, to scrutinize the misdemeanour file and the appeal in cassation at the Court, the right to make copies at their expense of such an appeal and of any documents contained in the file, as well as the right, to be exercised by an advocate representing the party, to file a response to such an appeal with the Court.

§ 164. Response to appeal in cassation

(1) The response to an appeal in cassation is drawn up in a typed or word-processed form and sets out:

- 1) the Supreme Court as the addressee;
- 2) if the party to the proceedings before the Court in whose interests the response to the appeal in cassation is filed is a natural person, their given name, surname, residential address, telephone number and email address;
- 3) if the party to the proceedings before the Court in whose interests the response to the appeal in cassation 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 in cassation is filed in the interests of the body to conduct the out-of-court proceedings, the name, address, telephone number and email address of that body;
- 5) the judgment appealed against, its date and the number of the misdemeanour case;
- 6) whether the appeal in cassation is deemed correct or is contested;
- 7) substantiated objections to the requests made in the appeal in cassation, as well as the facts and a reference to the provision of an Act on which the party to the proceedings before the Court relies in their reasons.
- 8) the reasons concerning the need for oral procedure, if the respondent requests such a procedure.

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

(2) The response to the appeal in cassation is signed by the body to conduct the out-of-court proceedings or by the advocate representing the party to the proceedings before the Court.

(3) If necessary, the Supreme Court may require a party to the proceedings before it to file a response to an appeal in cassation.

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

§ 165. [Repealed – RT I, 23.02.2011, 1 – entry into force 01.09.2011]

Division 3

Consideration of Misdemeanour Cases by the Supreme Court

§ 166. Rules for consideration of misdemeanour cases under cassation procedure

(1) As a rule, the Supreme Court considers misdemeanour cases by written procedure. Under that procedure, the Supreme Court sets a time limit during which the parties to the proceedings may make submissions to the court and the time at which its judgment will be publicly proclaimed, and notifies these to the parties. If a copy of the appeal in cassation has not been sent to the parties in accordance with the rules provided in subsection 1 of § 160 of this Code, it is appended to the corresponding notice.

(2) The misdemeanour case is considered by oral procedure if the Supreme Court deems this necessary. When the Supreme Court considers the appeal in cassation by oral procedure, it sends summonses to the parties to the proceedings before it. Unless the Supreme Court rules otherwise, the non-appearance at the sitting of a party who has received the summons does not prevent the case from being considered.

(3) A party to the proceedings before the Supreme Court has the right to scrutinize the court file at the Court and to make copies of the file at their own expense.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

§ 166¹. 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 discontinuing the request. The Supreme Court may also resume the proceedings earlier if proceedings concerning the request mentioned in subsection 1 of this section are disproportionately delayed.

(6) If proceedings are suspended, the running of the procedural time limit provided in 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 decision of the European Court of Human Rights received with regard to the request that was made is organized by the Supreme Court at the expense of the state.

[RT I, 26.06.2017, 17 – entry into force 06.07.2017, § 166¹ 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 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 decision 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 misdemeanour case for consideration to the Special Panel of the Supreme Court

(1) By a corresponding order, the misdemeanour case is referred for consideration to the Special Panel of the Supreme Court if, when considering the case, the Criminal Chamber of the Supreme Court finds that

interpretation of the relevant statute requires that an opinion stated by another Chamber or by the Special Panel in their latest decision be varied, or if this is necessary for ensuring uniform application of the statute.
[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 sitting of the Special Panel, the case is presented by a member of the Criminal Chamber.

§ 169. Referral of misdemeanour case for consideration to the Supreme Court *en banc*

(1) By a corresponding order, the 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 decision of the Supreme Court *en banc* or of the Special Panel of the Supreme Court, or
2) that, for uniform application of the statute, jurisdiction be vested in the Supreme Court *en banc*.

(2) The panel considering the misdemeanour case refers the case for hearing to the Supreme Court *en banc* if adjudication of the misdemeanour case requires resolution of an issue subject to consideration under the Constitutional Review Court Procedure Act.

§ 170. Implementation of the sitting of the Supreme Court

(1) The justice presiding over the sitting:
1) opens the sitting and announces the misdemeanour case to be considered and the person based on whose appeal in cassation the case is to be considered;
2) ascertains whether the appellant in cassation, the body to conduct the out-of-court proceedings and the advocates representing any other parties to the proceedings before the court are in attendance at the sitting, 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 in cassation, of the body to conduct the out-of-court proceedings and of the advocates representing any other parties to the proceedings before the court, and asks whether they wish to make any applications for recusal or any other requests;
5) asks the appellant in cassation whether they wish to proceed with the appeal in cassation or to discontinue it.

(2) Discontinuance of the appeal in cassation is certified by the appellant in cassation signing a corresponding note on the appeal.

(3) Any requests or applications that have been made are resolved by an order.

(4) If, on implementation of the sitting, 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. Discontinuance of appeal in cassation

(1) The appellant in cassation may discontinue 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 the expiration of the time limit granted to the parties to the proceedings to make their submissions.

(2) By a written request, the body to conduct the out-of-court proceedings or the person subject to those proceedings has the right to discontinue an appeal in cassation filed by the advocate representing or defending them, except in the situation in which, under subsection 3 of § 19 of this Code, the participation of the defence counsel in the misdemeanour proceedings is mandatory.

(3) If the appellant in cassation has discontinued their appeal in cassation, the appeal is dismissed by a corresponding order and cassation proceedings are terminated with regard to that appeal.

(4) If the Supreme Court ascertains that the district court or the circuit court of appeal that adjudicated the misdemeanour case has incorrectly 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 in cassation has been discontinued.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

§ 172. Presentation of materials of the misdemeanour case

(1) When the sitting has been implemented, 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 in cassation;
- 3) the requests of the appellant in cassation;
- 4) the explanations and objections that have been submitted in the response to the appeal.

§ 173. Hearing submissions of the appellant in cassation and of other parties to proceedings before the Court, and closing the sitting

(1) After the materials of the misdemeanour case have been presented, the Court hears the submissions of the appellant in cassation, of the body to conduct the out-of-court proceedings and of the advocates representing any other parties to the proceedings who are in attendance at the sitting, starting with the appellant in cassation.
[RT I 2003, 83, 557 – entry into force 01.01.2004]

(2) The Court has the right to put questions to the appellant in cassation, to the body to conduct the out-of-court proceedings and to the advocates representing any other parties to the proceedings.
[RT I 2003, 83, 557 – entry into force 01.01.2004]

(3) The presiding justice has the right to interrupt the person being questioned if they depart from the scope of the appeal in cassation.

(4) After the persons questioned have been heard, the presiding justice closes the sitting and announces the time when the appellant in cassation and the other parties to the proceedings before the Court may be able, at the office of the Criminal Chamber, to scrutinize the judgment of the Supreme Court. The judgment is published on the website of the Court.

[RT I 2010, 19, 101 – entry into force 01.06.2010]

(5) [Repealed – RT I, 23.02.2011, 1 – entry into force 01.09.2011]

§ 173¹. Written questions of the Supreme Court

(1) For ensuring that the parties have an opportunity to be heard with respect to any legal issues arising in the case, the Supreme Court has the right, during the entirety of cassation proceedings, to put written questions to the parties to the proceedings before it. 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 in a typed or word-processed form. The response is signed by the party to the proceedings to whom the questions are addressed.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

§ 173². Scope of consideration of misdemeanour case under cassation procedure

(1) The misdemeanour case is considered having regard to the scope of the appeal in cassation. During consideration of the case, the appellant in cassation does not have the right to depart from the scope of their appeal. The provision in the first sentence of this subsection does not preclude or restrict the right of the appellant to make submissions concerning interpretation of the law and to submit objections to any submissions by the other party to the proceedings.

(2) The Supreme Court is not bound by the legal reasoning of the appeal in cassation.

(3) If it turns out that substantive law has been incorrectly applied, which has aggravated the situation of the person subject to the 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 the proceedings and to all misdemeanours they are accused of regardless of whether an appeal in cassation has been filed 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) uphold the judgment given by the district court or the circuit court of appeal upon consideration of the appeal filed against the determination made in the out-of-court proceedings, and deny the appeal in cassation;
- 2) substantively uphold the judgment given by the district court or the circuit court of appeal upon consideration of the appeal filed against the determination made in the out-of-court proceedings, inserting corrections of detail;
- 3) amend the body of the judgment given by the district court or the circuit court of appeal upon consideration of the appeal filed against the determination made in the out-of-court proceedings by removing a circumstance or circumstances presented in that part of the judgment;
- 4) annul the judgment given by the district court or the circuit court of appeal upon consideration of the appeal filed against the determination made in the out-of-court proceedings, 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) annul the judgment of the circuit court of appeal and uphold the judgment of the district court;
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]
- 6) annul the decision of the district court and uphold the determination of the body to conduct the out-of-court proceedings;
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]
- 7) annul, in its entirety or in part, the judgment given by the district court or the circuit court of appeal upon consideration of the appeal filed against the determination made in the out-of-court proceedings, and return the misdemeanour case to be heard anew by the court which applied substantive law incorrectly or which materially violated the law of misdemeanour procedure;
- 8) annul, in its entirety or in part, the judgment given by the district court or the circuit court of appeal upon consideration of the appeal filed against the determination made in the out-of-court proceedings 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 annulment of judgments under cassation procedure

Under the cassation procedure, the grounds for the annulment of a judgment are:

- 1) incorrect 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 judgment of the Supreme Court sets out:

- 1) the number of the case;
- 2) the date of the Court's judgment;
- 3) the panel dealing with the case;
- 4) the name of the case being considered;
- 5) the contested decision;
- 6) the date of consideration of the case;
- 7) whether the case was consideration by written or oral procedure;
- 8) the given name and surname of the appellant in cassation, of the representatives of the other parties to the proceedings before the Court and of the interpreters or translators who took part in in those proceedings;
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

(2) The body of the judgment of the Supreme Court sets out:

- 1) a summary of the previous proceedings before the courts;
- 2) the part of the judgment that the appellant in cassation contests, and the requests of the appellant;
- 3) the explanations and objections submitted in the response to the appeal in cassation.
- 4) the submissions made during the sitting held in the case by the appellant in cassation, by the body to conduct the out-of-court proceedings and by the advocates representing the other parties to the proceedings before the court;
- 5) the substantiation for the conclusions of the Supreme Court;
- 6) the legal basis for the conclusions of the Supreme Court.

(3) The final part of a judgment of the Supreme Court sets out the conclusions of the court.

(4) If the Supreme Court upholds the judgment of the district court or 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 set out in the body of the judgment of the district court or the circuit court of appeal, but may add its own reasoning;
- 2) it may limit its judgment to the introductory part, the concluding 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 sitting convened in the case by the Court or, in written procedure, following the due

date set by the Court to the parties to the proceedings before it for making their submissions. If necessary, the corresponding time limit may be extended by order up to 60 days.
[RT I, 19.03.2015, 1 – entry into force 29.03.2015]

§ 177. Entry into effect of the decision of the Supreme Court

The decision 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 judgments of the Supreme Court

(1) The opinion stated in a judgment of the Supreme Court concerning the application of a statute is binding for:
1) the district court or the circuit court of appeal, when hearing the misdemeanour case in which the judgment was given;
2) the Supreme Court, without prejudice to the special rules provided in §§ 167–169 of this Code.

(2) A judgment of the Special Panel of the Supreme Court concerning the application of a statute is binding for the Chambers of the Court until it is amended 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 amended by the Supreme Court *en banc* itself.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

Chapter 15 PROCEDURE FOR REVIEW OF FINAL JUDICIAL DECISIONS

§ 179. Definition of the procedure for review of final judicial decisions

(1) The procedure for review of a final judicial decision (subsequently referred to as 'review' in this Chapter) denotes consideration, by the Supreme Court, of an application for review of such a decision in order to decide on the re-opening of proceedings in the misdemeanour case in which the decision was rendered.

(2) A misdemeanour case in which a judicial decision 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 rendered 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, and which has been ascertained in another criminal or misdemeanour case by a judgment that has become final;

2) the commission, by the judge, in the course of hearing the misdemeanour case under review or in the course of hearing or considering an appeal filed against the determination made in out-of-court proceedings in the case, of a criminal offence, which has been ascertained by a judgment that has become final;

3) the commission, by an official of the body to conduct the out-of-court proceedings in the misdemeanour case under review, of a criminal offence, which has been ascertained by a judgment that has become final, if the offence may have had an impact on the judgment rendered in the case;

4) annulment 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, if 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;

4¹) the granting of an individual complaint filed with the European Court of Human Rights against 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, if such a violation may have influenced the process of making the decision in the case and it is not possible to eliminate the violation or compensate for the damage caused by it otherwise than by review;

5) other facts which are essential for the just adjudication 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 seeking review

(1) The parties to the proceedings before the court have the right to file an application seeking review.

(2) In relation to the ground provided by clause 4¹ of § 180 of this Code, the right to file an application seeking review is enjoyed by the advocate who appears as the defence counsel of the person who filed the individual complaint with the European Court of Human Rights, as well as by an advocate who appears as the defence counsel of a person who has filed an individual complaint with the European Court of Human Rights in a similar case and on the same legal basis or who appears as the defence counsel of a person who, 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, has the right to file such a complaint in a similar case and on the same legal basis.

[RT I 2006, 48, 360 – entry into force 18.11.2006]

§ 182. Time limits for filing the application seeking review

The application seeking review may be filed:

- 1) on the grounds prescribed in clauses 1–4¹ 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 seeking review

(1) The application seeking review, to be filed with the Criminal Chamber of the Supreme Court, is drawn up in a typed or word-processed form.

(2) The application seeking review sets out:

- 1) the applicant's position title, given name, surname and address;
- 2) the name of the body to conduct the out-of-court proceedings or of the court whose decision is the subject of the application, and the date of that decision;
- 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 requested 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 the application seeking review is filed by the body to conduct the out-of-court proceedings or by an advocate, a document certifying the authority of the person filing that application is annexed to the application.

(4) If review of the misdemeanour case is requested under the provisions of clauses 1–4¹ of § 180 of this Code, a copy of the court order or judgment on which the request for review relies is annexed to the application seeking review.

(5) The application seeking review is signed, and the date on which it was drawn up is noted on it, by the person who files that application.

[RT I 2006, 48, 360 – entry into force 18.11.2006]

§ 184. Acceptance of application seeking review

(1) Acting under § 160 of this Code, the Supreme Court decides on acceptance of the application seeking review within one month following the expiration of the time limit for responding to that 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 seeking review does not conform to the requirements provided for in § 183 of this Code, the Supreme Court sets a time limit for its defects to be cured.

(3) The application seeking 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 seeking review that was filed on the same grounds;
- 3) on the grounds in question, review of the judicial decision has already been refused.

[RT I 2006, 48, 360 – entry into force 18.11.2006]

§ 185. Halt of proceedings on the application seeking review

The Supreme Court makes an order by which it halts proceedings on the application seeking review if:

- 1) the application is submitted after expiration of the time limit provided in § 182 of this Code and the applicant has not requested reinstatement of the time limit or the Court has not reinstated it;
- 2) the application has been submitted by a person who under § 181 of this Code does not have the 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 Supreme Court.

§ 186. Procedure for review

The procedure for review is conducted following the provisions of §§ 166–173, 176 and 177 of this Code.

§ 187. Powers of the Supreme Court under the procedure for review

If the application seeking review is well-founded, the Supreme Court, by its judgment, annuls the contested judicial decision and returns the misdemeanour case to the court that decided it to be heard anew.

§ 188. Proceedings before district court or the circuit court of appeal following review of misdemeanour case

(1) Following the review of a misdemeanour case, proceedings before 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 examination of the case in court if:

- 1) the offender is dead;
- 2) the facts are clear and the body to conduct the out-of-court proceedings does not request the hearing of the case in court.

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

Chapter 16

PROCEDURE FOR RESOLUTION 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 interim appeal

A party to proceedings before the court and any non-party to those proceedings has the right to file an interim appeal against an order of the court that impinges on their rights or lawful interests, or on those of a defended person.

§ 191. Court orders not subject to contestation under procedure for resolution of interim appeals

No interim appeal may be filed against the following court orders:

- 1) orders limiting public access to a court sitting;
- 2) orders transferring a misdemeanour case to the court that has jurisdiction over the case;
- 3) orders of recusal and orders denying an application for recusal;
- 4) [Repealed – RT I 2006, 21, 160 – entry into force 25.05.2006]
- 5) orders adjourning the hearing of the case in court;
- 6) orders of joinder or severance of misdemeanour cases;
- 7) orders resolving requests of the parties to proceedings before the court;
- 8) orders on collection of additional evidence during proceedings before the court;
- 9) orders commissioning an expert assessment;
- 10) orders halting proceedings on the appeal under the procedure for appeals before the district court or orders halting proceedings on the appeal before the circuit court of appeal;
- 11) orders committing the misdemeanour case to be heard in court;
- 12) court orders made in accordance with § 79 of this Code to resolve an appeal against the actions of a body to conduct out-of-court proceedings, 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 appeals and procedure for filing such appeals

(1) An interim appeal is filed with the court that drew up the contested order, unless otherwise provided for in subsection 1¹ of this section.

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

(1¹) 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 sets out:
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 to proceedings before the court in whose respect the order is contested;
4) the part of the order that is contested;
5) the substance of and reasons for the requests made in the appeal;
6) a list of the documents annexed to the appeal.

(3) The interim appeal is signed and the date on which it was drawn up is noted on the appeal by the appellant.

(4) The interim appeal is included in the misdemeanour file.

§ 193. Time limit for filing interim appeal

(1) A party to proceedings before the court may file the interim appeal within 15 days following the date on which the contested order was made. If the order was made in written procedure, a party may file the interim appeal within 15 days following the date on which the party became or should have become aware of the order to be contested.

(2) A non-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.

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

§ 194. Procedure for consideration of interim appeals

(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 to proceedings before the court.

(3) Interim appeals are considered following the provisions of Chapters 11–14 of this Code without prejudice to any special rules provided in this Chapter.

§ 195. Consideration of interim appeal at the court that drew up the contested order

(1) The court that drew up the order considers the interim appeal within five days following its receipt.

(2) If the panel that drew up the contested order finds the interim appeal against that order well-founded, the panel makes an order annulling the contested order and, if necessary, makes a new order. Annulment of the contested order and the making of a new order are notified to the appellant without delay.

(3) If the panel which drew up the contested order finds the appeal against the order unfounded, the panel transmits the contested order and the interim appeal against that order without delay to the court that has jurisdiction to deal with the appeal.

§ 196. Consideration of interim appeal at the higher court

(1) The higher court considers the 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 single appeal judge.

(3) An interim appeal against an order of a 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 a 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 decision only if the decision of the Supreme Court in the matter is essential for uniform application of the relevant statute or for development of the law.

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

§ 197. Suspension of enforcement of contested order

The court that receives an interim appeal may suspend the enforcement of the contested order.

§ 198. Finality of order made on consideration of interim appeal

The court order made upon consideration of an interim appeal is final and not subject to further appeal.

Chapter 17 ENTRY INTO EFFECT AND ORDERING THE ENFORCEMENT OF DECISIONS

Division 1 General Provisions

§ 199. Entry into effect of determinations and orders made in out-of-court proceedings and of judgments and court orders

(1) A determination made in out-of-court proceedings enters into effect if no appeal has been filed against it and the time limit for appealing the determination has expired.

(2) A judgment or court order enters into effect when it is not possible to contest it other than under the procedure for review of final judicial decisions, except in the cases provided for in subsections 3 and 4 of this section.

(2¹) If the time limit for filing an appeal against a determination made in out-of-court proceedings or against a judgment or court order is reinstated, the determination, 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 custodial detention 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 determinations and orders of bodies conducting out-of-court proceedings and of judgments and court orders

Any determinations or orders of bodies to conduct out-of-court proceedings as well as any judgments or court orders which have entered into effect have binding force in respect of all persons in the territory of the Republic of Estonia.

§ 201. Permissibility of enforcement of determinations and orders of bodies to conduct out-of-court proceedings and of judgments and court orders

(1) The enforcement of a determination or order made by a body to conduct out-of-court proceedings or of a judgment or court order is ordered when the relevant decision 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 determination of a body to conduct out-of-court proceedings, or an appeal to the circuit court of appeal or an appeal in cassation is filed against a judgment, with regard to only one of the persons subject to the proceedings, enforcement of the determination or judgment is ordered with regard to the other persons subject to those proceedings.

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

§ 202. Body to order enforcement of determinations and orders made by the body to conduct the out-of-court proceedings and of judgments and court orders

(1) The enforcement of a determination or order that was made by a body to conduct out-of-court proceedings and that has entered into effect is ordered by the body that made the respective decision in the out-of-court proceedings.

(2) The enforcement of a judgment or order that was rendered by a court of first instance and that has entered into effect is ordered by the district court that made the respective decision in the case.

(3) The enforcement of a judgment rendered by the district court under the procedure for appeals against out-of-court determinations, or of a judgment rendered under cassation procedure, when such a judgment has entered into effect, is ordered by the body to conduct the out-of-court proceedings that made the first decision in the misdemeanour case.

(4) The enforcement of a decision that was rendered by the circuit court of appeal or the court of cassation and that has entered into effect is ordered by the district court that made the first judicial decision in the misdemeanour case.

(5) In the situation provided for in subsection 2 of § 204 of this Code, enforcement of the judicial decision is ordered by the authority designated by administrative decree of the minister responsible for the area.
[RT I, 29.06.2014, 109 – entry into force 01.07.2014, the words "the Minister of Finance" substituted with the words "the minister responsible for the area" on the basis of subsection 4 of § 107³ of the Government of the Republic Act.]

§ 203. Time limits for ordering enforcement of determinations and orders of bodies to conduct out-of-court proceedings and of judgments and court orders

(1) The enforcement of a judgment by which the person subject to the proceedings is released from custodial detention is ordered without delay upon pronouncement of the concluding part of the judgment.

(2) The enforcement of a determination of a body to conduct out-of-court proceedings, or of a judgment, by which a sanction is imposed on the offender, is ordered within ten days following the day on which the determination or judgment entered into effect or on which the misdemeanour case was returned from the circuit court of appeal or cassation instance.

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

(3) The enforcement of a judgment by which custodial detention is imposed is ordered following the rules provided in § 205 of this Code.

(4) The enforcement of an order made by a body to conduct out-of-court proceedings or by a court is ordered as of its entry into effect.

(5) No decision may be ordered enforced when the time limit provided in clause 3 of subsection 1 of § 82 of the Penal Code has expired and enforcement of the determination made by the body to conduct the out-of-court proceedings or of the judgment has not been deferred.

[RT I 2009, 68, 463 – entry into force 01.01.2010]

Division 2 Ordering Enforcement of Decisions

§ 204. Ordering enforcement of fines imposed by determination made by the body to conduct the out-of-court proceedings or by judgment given in the case

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

(1) A determination made by the body to conduct the out-of-court proceedings by which that body has imposed a fine is deemed to have been complied with and its enforcement is not to be ordered if:

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

1) the offender has paid the fine in full within 15 days following receipt of the determination made by that body under expedited procedure in accordance with subsection 2 of § 55 of this Code or, if the fine is to be paid in instalments, pays those instalments on time;

[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

2) the offender has paid the fine in full within 15 days following the day on which the determination made by that body under regular procedure in accordance with clause 1 of subsection 1 of § 73 of this Code became available for the parties subject to the proceedings to read in the body's premises or, if the fine is to be paid in instalments, pays those instalments on time;

[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

3) the fine imposed by a determination which, under subsection 1 of § 202 of this Code, is to be enforced by the Tax and Customs Board has been set off by that Board in full in accordance with the rules provided in the Taxation Act before expiration of the time limit for ordering its enforcement.

[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

(2) A judgment which imposes a fine and which has become final is sent to the authority that has been appointed by a directive of the minister responsible for the area 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 to be ordered

if the Tax and Customs Board, before expiration of the time limit for ordering its enforcement, has set off the fine in full in accordance with the rules provided in 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 responsible for the area" on the basis of subsection 4 of § 107³ of the Government of the Republic Act.]

(3) If the offender has not paid the fine in full within the time limit provided in clause 1 or clause 2 of subsection 1 of this section or within the time limit for appealing the judgment or, if their fine is to be paid in instalments, does not comply with the schedule for the payment of instalments, the authority which is to order the enforcement of the decision under § 202 of this Code sends to the bailiff, within ten days, a copy of that decision on which a note is inscribed concerning its entry into effect.
[RT I, 14.03.2011, 3 – entry into force 24.03.2011]

(4) A determination whose enforcement, under § 202 of this Code, is to be ordered by the Tax and Customs Board is enforced in accordance with the rules provided in the Taxation Act.
[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

§ 204¹. Recognition and enforcement of fines imposed in foreign states in misdemeanour cases by determinations of bodies to conduct out-of-court proceedings or by judgments

Unless otherwise prescribed by international agreements of the Republic of Estonia or by generally recognized principles of international law, the provisions of criminal procedure concerning recognition and enforcement of foreign judgments apply to recognition and enforcement of fines imposed in foreign states in misdemeanour cases by decisions of bodies conducting out-of-court proceedings or by judgments, having regard to the substitution for fines of custodial detention as provided for in § 72 of the Penal Code.
[RT I 2008, 33, 201 – entry into force 28.07.2008]

§ 204². Requests to member states of the European Union for enforcement of fines imposed in misdemeanour cases by determinations of bodies to conduct out-of-court proceedings or by judgments

Estonia may request that a member state of the European Union enforce a fine imposed on a person in a misdemeanour case by the determination of a body to conduct out-of-court proceedings or by the judgment of a court. 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 determinations imposing a fine.
[RT I 2008, 33, 201 – entry into force 28.07.2008]

§ 204³. Ordering the enforcement of withdrawal of the entitlement to drive

To order the enforcement of a withdrawal of the entitlement to drive imposed as the principal or as an ancillary sanction, the judgment or the determination of the body to conduct the out-of-court proceedings is sent to the relevant authority, which is to withdraw from the offender the entitlements set out in the decision and to take custody of any documents issued to them for the exercise of such entitlements.
[RT I 2008, 54, 304 – entry into force 27.12.2008]

§ 205. Ordering the enforcement of custodial detention

(1) If the enforcement of a judgment by which custodial detention is imposed has not been deferred in accordance with § 209 of this Code and the offender was arrested for the duration of proceedings before the court, the district judge who is to order enforcement of the judgment orders such enforcement without delay upon the giving of judgment. A copy of the judgment bearing a note concerning its entry into effect is sent to the custody centre that serves the locality of the court which gave the judgment, or the locality of the residence of the offender, including reservists and persons in active service or, if custodial detention has been imposed on a conscript, to the Defence Forces.
[RT I, 01.03.2017, 1 – entry into force 01.04.2017]

(2) If the 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 proceedings before the court, the district court that is to enforce the decision sends an order to the offender, setting out when and to which custody centre 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 custody centre at which the offender is to serve their sentence.

(3) In the situation provided for in subsection 2 of this section, the time of commencement of the serving of custodial detention is deemed to be the time that the offender arrives at the custody centre.

(4) If the offender does not report to the custody centre at the prescribed time to serve their custodial detention, the custody centre notifies this to the court that ordered enforcement of the detention. In such a case, the district court makes an order directing that the offender be compelled to attend at the centre.
[RT I 2005, 39, 308 – entry into force 01.01.2006]

§ 206. Rules for handing over confiscated property

[RT I, 31.12.2016, 2 – entry into force 01.02.2017]

(1) Unless otherwise provided by statute, the body to enforce a court decision or a determination of a body to conduct out-of-court proceedings sends the following documents to the agency authorized to administer confiscated property:

- 1) a copy of the judgment or court order or the decision or order of the body to conduct the out-of-court proceedings bearing a note concerning 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. Ordering enforcement of costs of the case and of other financial claims awarded by determinations of bodies to conduct out-of-court proceedings and by judgments

Enforcement of the costs of the case and other financial claims awarded by a determination of a body to conduct out-of-court proceedings or by a judgment is ordered in accordance with the rules provided in §§ 201, 203 and 204 of this Code.

§ 207¹. Ordering the enforcement of, and performance, of community service

(1) To order the enforcement of a sentence imposing community service, the judicial decision 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 decision 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 responsible for the area.

[RT I 2010, 44, 258 – entry into force 01.01.2012]

Division 3 Return of Objects in Misdemeanour Proceedings

§ 208. Return of objects

(1) If documents or objects have been taken into custody from a person with regard to whom misdemeanour proceedings have been terminated, the district court which is to order enforcement of the judgment sends the relevant decision, when it has entered into effect, to the relevant authority in order for such documents or objects to be returned to their owner or lawful possessor.

(2) If documents or objects have been taken into custody from a person with regard to whom misdemeanour proceedings have been terminated, the body to conduct the out-of-court proceedings which is to order enforcement of the determination returns those objects to their owner or lawful possessor or sends the relevant decision, when it has entered into effect, to the relevant authority, for such documents or objects to be returned to their owner or lawful possessor.

(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 statute.

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

Division 4

Resolution of Issues Arising in the Course of Enforcement of Decisions of Bodies Conducting Out-of-Court Proceedings or of Judicial Decisions

§ 209. Deferral of ordering the enforcement of fines or of custodial detention imposed as sanction for a misdemeanour

(1) If circumstances are present which render it impossible to carry out, without delay, the custodial detention imposed as the sanction for a misdemeanour, the district court which is to order enforcement of the relevant decision may, on the basis of the corresponding application by the offender, make an order by which it defers the carrying out of the detention, and set out 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, a fine imposed as the sanction for a misdemeanour, the district court or the body to conduct the out-of-court proceedings that is to order enforcement of the relevant decision may, on the basis of the corresponding application by the offender, make an order by which they defer the ordering of enforcement of the fine and set out in that order the date of commencement and the end date of the deferral.

(3) Where the ordering of enforcement of custodial detention has been deferred, enforcement of the relevant decision is to be ordered in accordance with the rules provided in 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 detention was deferred is sent to the custody centre together with a copy of the relevant decision.

(4) Where the ordering of enforcement of the fine mentioned in subsection 2 of this section is deferred, enforcement of the relevant decision is to be ordered 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 bailiff together with a copy of the relevant decision bearing a note concerning its date of entry into effect.

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

§ 210. Extension of time limit for enforcement of fines imposed as sanction for a misdemeanour

[Repealed – RT I 2004, 46, 329 – entry into force 01.07.2004]

§ 210¹. Resolution of issues arising in the course of performance of community service

(1) If the offender evades the carrying out of their community service, the probation officer who established such a violation files a request with the court to order enforcement of the custodial detention 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 request filed by 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, in accordance with subsection 6 of § 69 of the Penal Code, decide on revoking the imposition of community service and on ordering the enforcement of the custodial detention imposed on the offender by the relevant judgment.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

§ 210². Notification of performance of community service

If the number of hours of community service that were imposed on the offender have been performed, the probation officer transmits the relevant information to the Criminal Records Database within the time limit and in accordance with the rules provided in the Criminal Records Database Act.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

§ 210³. 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 request with the court that contains the particulars concerning the circumstances of the violation, the number of hours of community service performed, a summary of any explanation provided by the offender and a proposal to cease the community service and to order the enforcement of custodial detention.

[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 active service obligation or are participating in a training exercise, the probation officer files a request with the court to suspend the running of the term of their community service. The request 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 general restriction on the term of the community service provided for in respect of the relevant offence.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

§ 210⁴. Assignment of community service enforcement work

(1) The minister responsible for the area may, in accordance with the rules provided in the Administrative Cooperation Act and on the basis of an administrative contract, assign a proportion of community service enforcement work in the district served by a probation supervision department to a suitable local authority or non-profit association which has expressed the corresponding wish. The right to file the request for ceasing the community service provided for in § 210³ of this Code must not be assigned.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

(2) Supervision over the work of local authorities or non-profit associations in enforcing community service is performed by the head of the probation supervision department of the relevant district and by the minister responsible for the area.

[RT I, 31.12.2016, 2 – entry into force 01.01.2017]

(3) The head of the relevant probation supervision department and the minister responsible for the area may give mandatory instructions to the local authority 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 responsible for the area 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. Substitution, by custodial detention or community service, of fines imposed as sanction for a misdemeanour; ordering the enforcement of the sanction

[RT I 2010, 44, 258 – entry into force 01.01.2012]

(1) If the offender has not paid the 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 corresponding application by the offender, makes an order by which it substitutes the fine by custodial detention or by community service in accordance with § 72 of the Penal Code.

[RT I 2010, 44, 258 – entry into force 01.01.2012]

(1¹) The district court resolves the substitution of a fine by custodial detention or by community service with the offender in attendance. At the request 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 partially paid, the part which has been paid is taken into consideration, in proportion to the amount that has been paid, when determining the term of the substitutive custodial detention or the duration of the community service.

[RT I 2010, 44, 258 – entry into force 01.01.2012]

(3) If, for some reason, substitution of the fine by substitutive custodial detention or community service is not possible or if the offender pays the fine before the imposition of the detention or community service, the district court makes an order by which it denies the application of the party seeking collection for substitution of the fine by detention or 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 bailiff 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 decisions of bodies conducting out-of-court proceedings or of judicial decisions

(1) Issues not governed by this Chapter and any other doubts and ambiguities arising in the course of enforcement of a decision of a body to conduct out-of-court proceedings or of a judicial decision are resolved by the court or the body that made the decision or by the body to conduct the out-of-court proceedings or the district judge who ordered the enforcement of the decision, by an order made in written procedure without summoning the parties subject to the proceedings.

(2) A copy of the order is sent to the bailiff and to the party subject to the proceedings whom the order concerns.

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

§ 212¹. Receipt of cautionary fines and corrective fines

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

Cautionary fines and corrective fines are charged to the national budget. If the body to conduct the out-of-court proceedings who imposed the cautionary or corrective fine is a rural municipality or city executive, the cautionary or corrective fine is charged to the budget of the local authority that made the corresponding determination.

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

Chapter 18 IMPLEMENTING PROVISIONS

§ 212². Limitation period for enforcement of determinations of the Police and Border Guard Board which entered into effect before 2010

The period for enforcement of a determination 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]

§ 212³. 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 ordered 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]

§ 212⁴. Special rule for implementing § 166¹

§ 166¹ 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]

§ 212⁵. Special rule for applying Division 1² of Chapter 10 of this Code

Division 1² of Chapter 10 of this Code does not apply to misdemeanour proceedings which were commenced before the entry into force of that Division.

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

§ 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.