

Issuer:	Riigikogu
Type:	act
In force from:	01.07.2018
In force until:	In force
Translation published:	17.07.2018

Code of Criminal Procedure Implementation Act

Passed 19.05.2004

RT I 2004, 46, 329

Entry into force 01.07.2004, in part according to § 26.

Amended by the following acts

Passed	Published	Entry into force
28.06.2004	RT I 2004, 54, 387	01.07.2004
23.03.2005	RT I 2005, 20, 127	24.04.2005
11.06.2008	RT I 2008, 28, 180	15.07.2008
19.06.2008	RT I 2008, 32, 198	15.07.2008
27.01.2011	RT I, 23.02.2011, 1	01.09.2011
17.02.2011	RT I, 21.03.2011, 2	01.01.2012 Repealed [RT I, 29.06.2012, 2]
08.12.2011	RT I, 22.12.2011, 3	23.12.2011 Repealed [RT I, 29.06.2012, 2]
06.06.2012	RT I, 29.06.2012, 2	09.07.2012, in part 01.01.2013, 01.01.2014 and 01.01.2015
20.03.2014	RT I, 26.03.2014, 7	21.09.2014 - The Constitutional Review Chamber of the Supreme Court declares to be unconstitutional and repeals, as of the entry into effect of its judgment, subsection 2 of § 25 ¹ of the Code of Criminal Procedure Implementation Act insofar as it does not prescribe an effective control system to ensure continued justification for non-notification of covert operations conducted subject to authorizations for such operations which expired before 1 January 2013.
12.06.2014	RT I, 21.06.2014, 11	01.07.2014, in part 01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the titles of Ministers replaced, in the version in force as of 1 July 2014, on the basis of subsection 4 of § 107 ³ of the Government of the Republic Act.
09.12.2014	RT I, 22.12.2014, 9	01.01.2015
18.02.2015	RT I, 06.03.2015, 22	16.03.2015
17.12.2015	RT I, 06.01.2016, 5	16.01.2016, in part 01.01.2017
10.05.2017	RT I, 26.05.2017, 1	05.06.2017
07.06.2017	RT I, 26.06.2017, 17	06.07.2017
14.06.2017	RT I, 26.06.2017, 70	06.07.2017
22.11.2017	RT I, 05.12.2017, 1	15.12.2017, in part 01.07.2018

Chapter 1

GENERAL PROVISIONS

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

(1) Procedural and covert operations commenced prior to the entry into force of the Code of Criminal Procedure are completed in accordance with the Criminal Procedure Code and the Covert Operations Act, except in situations provided for in subsection 2 of this section.

(2) Pre-trial proceedings in a criminal case are completed by the Prosecutor's Office in accordance with the rules provided in sections 223–227 of the Code of Criminal Procedure. In criminal cases which are sent to the Prosecutor's Office under sec§ 176 of the Criminal Procedure Code and in which the accused is represented by a defence counsel, the operations provided for in sections 224–225 of the Code of Criminal Procedure are forgone, except for provision to the counsel, at their request, of a copy of the criminal file.

(3) Complaints that have been lodged, prior to the entry into force of the Code of Criminal Procedure, with an administrative court against the actions of an investigator or a prosecutor are considered by the administrative court in accordance with the rules provided in the Code of Administrative Court Procedure.

§ 2. Application of the Code of Criminal Procedure in trial proceedings

(1) A criminal case that was sent to court, or a private prosecution on which proceedings were instituted by a court, prior to the entry into force of the Code of Criminal Procedure, is tried by the court of the relevant urban or rural district under the provisions of the Criminal Procedure Code.

(2) If criminal proceedings have not been instituted based on a petition to institute criminal proceedings in a private prosecution case which was filed with the court prior to the entry into force of the Code of Criminal Procedure, the court refers the petition to the Prosecutor's Office in whose service area the criminal offence was committed, to decide on the institution of such proceedings. The deposit fee paid on filing the petition is refunded.

(3) Any motions or applications, complaints or appeals filed prior to the entry into force of the Code of Criminal Procedure are disposed of by Circuit Courts of Appeal and the Supreme Court under the provisions of the Code of Procedure for Appeal and for Appeal to the Supreme Court in Criminal Cases.

§ 2¹. Application of section 268¹ of the Code of Criminal Procedure in trial proceedings

(1) Section 268¹ of the Code of Criminal Procedure does not apply in criminal proceedings in which, prior to 15 July 2008, the court has ordered the accused to answer the charges against them.

(2) Where a member of a district court panel is sitting on the panel in a criminal case or in several criminal cases in which the order to answer the charges was made prior to 15 July 2008, they may, in addition to those cases, accept to sit on the panel in one more criminal case in which the order to answer the charges was made after 15 July 2008, and accept other criminal cases only according to the exceptions set out in subsections 2 and 3 of § 268¹ of this Code.

[RT I 2008, 32, 198 – entry into force 15.07.2008]

§ 2². Disclosure of orders mentioned in §§ 202 and 203 of the Code of Criminal Procedure

Until 31 December 2009, the Prosecutor's Office discloses the orders mentioned in §§ 202 and 203 of the Code of Criminal Procedure based on the corresponding requests for information, taking into account the requirements provided for in subsections 2–5 of § 408¹, replacing the name and personal data of the suspect with initials or an alphabetic character.

[RT I 2008, 32, 198 – entry into force 15.07.2008]

§ 2³. Special rules concerning trials and hearings after 1 September 2011

(1) Until the creation of the relevant technical conditions in the courts, audio recording of trials or hearings in cases dealt with under regular procedure is performed and the resulting recordings are made available – respectively under subsection 1 of § 156 and section 156¹ of the Code of Criminal Procedure – in accordance with the version of the Code of Criminal Procedure in force prior to 1 September 2011. The Minister in charge of the policy sector enacts, by regulation, the timeframe, conditions and rules for transition to audio recording of trials and hearings.

(2) The provision of subsection 2 of § 296 of the Code of Criminal Procedure, which entered into force on 1 September 2011, does not apply at trial in a criminal case in which the prosecutor submitted the criminal file to court prior to 1 September 2011.

(3) If the judgment of a District Court that was rendered in a criminal case which was sent to court prior to 1 September 2011 is set aside in proceedings on appeal or on appeal to the Supreme Court, and the criminal case

is remanded to the District Court to be retried by a different court panel, in further proceedings in the case the provision of subsection 2 of § 296 of the Code of Criminal Procedure in force is applied.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

§ 2⁴. Exceptional time limit for making a civil court claim

In criminal cases in which the Prosecutor's Office has, prior to 1 September 2011, declared pre-trial proceedings completed, a victim may make a civil court claim until completion of examination of evidence during the trial or hearing before the District Court.
[RT I, 23.02.2011, 1 – entry into force 01.09.2011]

§ 2⁵. Application of § 38² of the Code of Criminal Procedure in trial proceedings

Section 38² of the Code of Criminal Procedure applies going forward to court claims which are made after the entry into force of that section.
[RT I, 26.05.2017, 1 – entry into force 05.06.2017]

Chapter 2 AMENDMENT OF ACTS

§ 3.–§ 18.[Omitted from this text]

Chapter 3 REPEAL OF ACTS

§ 19.–§ 22.[Omitted from this text]

Chapter 4 PROVISIONS DELEGATING AUTHORITY AND ENTRY INTO FORCE OF THIS ACT

§ 23. Duration of committal in custody in pre-trial proceedings

Until 1 January 2005, a preliminary investigation judge may, on an application of the Chief Public Prosecutor in a criminal case of particular complexity or volume or in exceptional circumstances resulting from international cooperation in criminal proceedings, extend the duration of a person's committal in custody during pre-trial proceedings to more than one year.

§ 24. Provisions delegating authority

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

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

(3) Within two months following the entry into force of this Act, the Government of the Republic arranges publication, in the *Riigi Teataja*, of the Code of Criminal Procedure, the Covert Operations Act and the Prosecutor's Office Act.

§ 25. Language of documents

Until 1 January 2008, subsection 3 of § 10 and § 144 of the Code of Criminal Procedure may be applied such that documents in foreign languages are translated at the latest by the time of transmission or submission of the criminal file to court or on direction of the Prosecutor's Office or if a party requests this in the course of pre-trial proceedings.
[RT I 2005, 20, 127 – entry into force 24.04.2005]

§ 25¹. Validity of authorizations for a covert operation and of authorizations for non-notification of a covert operation

(1) Authorizations for a covert operation that were issued until 31 December 2012 remain effective with respect to the persons indicated in the authorization until expiry of the time limit indicated in the authorization.

(2) The provisions of subsections 1–5 of § 126¹³ of the Code of Criminal Procedure are applied to covert operations whose authorization expired prior to 1 January 2013 in the situations provided for in subsections 3–8 of this section and without prejudice to the special rules laid down in those subsections.
[RT I, 06.03.2015, 22 – entry into force 16.03.2015]

(3) In relation to covert operations which were conducted on the basis of an authorization granted by a preliminary investigation judge starting from 1 July 2004, which expired before 1 January 2013, a check of the presence of grounds for non-notification is performed if the criminal case has not been sent to court for trial or hearing by means of a statement of charges or a plea agreement.
[RT I, 06.03.2015, 22 – entry into force 16.03.2015]

(4) The covert operations authority checks whether the grounds mentioned in subsection 2 of § 126¹³ of the Code of Criminal Procedure for non-notification of a covert operation are present in the case of a person with regard to whom such an operation was conducted, and with regard to any person who is clearly identifiable in the covert operation file and the inviolability of whose private or family life was significantly interfered with by the operation. In the case of covert operation files held at the Prosecutor's Office, the check provided for in this subsection may also be performed by the Prosecutor's Office.
[RT I, 06.03.2015, 22 – entry into force 16.03.2015]

(5) If the grounds for non-notification are no longer present, the covert operations authority notifies the person of the covert operation without delay.
[RT I, 06.03.2015, 22 – entry into force 16.03.2015]

(6) Where the grounds for non-notification of a covert operation continue to be present, the Prosecutor's Office applies to a preliminary investigation judge for authorization to extend the duration of non-notification. The preliminary investigation judge, by order, authorizes non-notification of the person or refuses to grant such authorization. In the case of non-notification, the order states whether this is for an unspecified or a specified period. In the case of non-notification for a specified period, the period during which the person will not be notified of the operation is set out. If authorization for extension of the duration of non-notification is refused, the covert operations authority notifies the person of the covert operation without delay.
[RT I, 06.03.2015, 22 – entry into force 16.03.2015]

(7) When a person is notified of a covert operation conducted in their respect, they must also be provided an explanation of the rules governing appeal.
[RT I, 06.03.2015, 22 – entry into force 16.03.2015]

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

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

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

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

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

§ 25³. Special rules governing application of Chapter 14¹ of the Code of Criminal Procedure

(1) A member of the *Riigikogu* in respect of whom criminal proceedings were commenced before the entry into force of Chapter 14¹ of the Code of Criminal Procedure is subject to the rules provided in Chapter 14 of the Code of Criminal Procedure in force at the time of commencement of those proceedings.

(2) The provisions of subsection 1 of this section also apply to in the case of a member of the *Riigikogu* who did not possess that status at the time of commencement of criminal proceedings in their case.
[RT I, 22.12.2014, 9 – entry into force 01.01.2015]

§ 25⁴. Requirements for civil court claims

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

§ 25⁵. Special rule concerning application of § 352¹ of the Code of Criminal Procedure

Section 352¹ of the Code of Criminal Procedure applies from 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]

§ 25⁶. Application of provisions of the European Investigation Order

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

§ 25⁷. Special rule governing application of subsection 2 of § 131 of the Code of Criminal Procedure

Under subsection 2 of § 131 of the Code of Criminal Procedure, in respect of minors whose committal in custody or the extension of whose committal in custody is applied for after 1 July 2018, committal in custody may be substituted with placement in a closed child care institution. [RT I, 05.12.2017, 1 – entry into force 01.07.2018]

§ 26. Entry into Force of this Act

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

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

(3) Subsection 4 of § 210 of the Code of Criminal Procedure, inserted by clause 105 of § 9 of this Act, enters into force on 1 September 2005 and subsection 5 of the same section on 1 January 2005.

(3¹) Clause 106 of § 9 of this Act applies to war crimes committed starting from 20 August 1991.

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

(5) With respect to the Police Board, the Border Guard Board, the Department of Prisons of the Ministry of Justice as well as the prisons and the Tax and Customs Board, clause 1 of § 15 of this Act enters into force on 1 July 2006. [RT I 2005, 20, 127 – entry into force 24.04.2005]