REPUBLIC OF SERBIA

LAW ON MISDEMEANOURS

Belgrade, 2020

LAW ON MISDEMEANOURS

Note: This is a true translation of the original Law, but it is not legally binding.

Original title:
ZAKON O PREKRŠAJIMA

C O N T E N T S

LAW ON MISDEMEANOURS

LAW
ON MISDEMEANOURS *

****PUBLISHER'S NOTE: The provisions of Article 87 paragraph 2 item 1) and Article 100 paragraph 2 of this Law ceased to be valid on the day of beginning of application of the Public Procurement Law (Službeni glasnik RS, No. 91/19), i.e. on 1 July 2020 (see Article 246 of the Law - 91/2019-3). Law on Additions to the Law on Misdemeanours (Službeni glasnik RS, No. 91/19) shall enter into force on 1 January 2020 (see Article 3 of the Law - 91/2019-84).*

Part One

SUBSTANTIVE LEGAL PROVISIONS

Chapter I

BASIC PROVISIONS

Scope of the Law

Article 1

This Law shall regulate: the notion of misdemeanour, conditions for misdemeanour liability, conditions for prescribing and enforcement of misdemeanour sanctions, the system of sanctions, misdemeanour proceedings, issuing of misdemeanour notice, the procedure of decision enforcement, register of sanctions and register of unpaid fines and other monetary amounts.

Notion of a Misdemeanour

Article 2

A misdemeanour shall be an unlawful act stipulated as a misdemeanour by the law or other regulation of a competent authority for which a misdemeanour sanction is prescribed.

Legality in Prescribing Misdemeanours and Misdemeanour Sanctions

Article 3

No one may be punished for a misdemeanour or may other misdemeanour sanctions may be enforced against him/her, if such an act, prior to being committed, was not stipulated, by the law or by a regulation based on a law, as a misdemeanour and for which the type and degree of sanction by which the misdemeanour offender may be sanctioned has not been prescribed by the law or another regulation based on a law.

---

* Published in the *Službeni glasnik RS*, Nos. 65/13 of 25 July 2013, 13/16 of 19 February 2016, 98/16 of 8 December 2016 (CC), 91/19 of 24 December 2019 (other law) and 91/19 of 24 December 2019. The latest changes are given in *italic*.

Prescribing Misdemeanours

Article 4

Misdemeanours can be prescribed by a law or a regulation and/or by a decision of the Assembly of the Autonomous Province, municipal assembly, city/town assembly and by the Assembly of the City of Belgrade.

Authorities authorized to pass the regulations on misdemeanours may prescribe only the sanctions provided for in this Law and within the limits determined by this Law.

The authorities authorized to pass the regulations referred to in paragraph 1 of this Law may prescribe misdemeanour sanctions for the infringements of regulations that they pass within their respective competencies laid down by the Constitution and the law only, under conditions determined by this Law.

The authority authorized to prescribe misdemeanour sanctions may not transfer this right to other authorities.

Purpose of Misdemeanour Sanctions

Article 5

Sanctions prescribed by this Law can be imposed for a misdemeanour.

The purpose of prescribing, imposing and enforcement of misdemeanour sanctions is that the citizens respect the legal system and that no misdemeanours are committed in the future.

Temporal Applicability of Regulations

Article 6

The law, i.e. the regulation that was in force at the time when the misdemeanour was committed shall apply to the misdemeanour offender.

If, following the committed misdemeanour, the regulation has been amended once or several times, the regulation that is the most lenient for the offender shall be applied.

Spatial Applicability of Regulations

Article 7

Provisions on misdemeanours shall apply in the territory of the Republic of Serbia when they are prescribed by the law or regulation, i.e. in the territories of the territorial autonomy units and of the local self-government units when they are prescribed by the decision of the Assembly of the Autonomous Province, municipal assembly, city/town assembly or of the Assembly of the City of Belgrade.

The offender shall be sanctioned for a misdemeanour stipulated by the regulations of the Republic of Serbia if the misdemeanour is committed in the territory of the Republic of Serbia or if it is committed on board of a domestic ship or aircraft while being outside of the territory of the Republic of Serbia.

A misdemeanour offender shall be sanctioned for a misdemeanour committed abroad only where that is laid down by a law or a regulation.

In the case referred to in paragraph 2 of this Article, under the condition of reciprocity, prosecution for a misdemeanour may be assigned to a foreign state in which the misdemeanour offender who is a foreign national has the domicile.

Prohibition of Repeat Trial in the Same Legal Matter

Article 8

No one can be tried again and a misdemeanour sanction may not be imposed again for a misdemeanour on which a final decision has been passed in compliance with the law.

The prohibition referred to in paragraph 1 of this Article shall not preclude a repeat misdemeanour proceeding in compliance with this Law.

No procedure can be initiated for a misdemeanour against a misdemeanour offender who has been finally pronounced guilty in a criminal proceeding of a criminal offence which additionally includes the characteristics of such misdemeanour, and where it has been initiated or is in progress, it may not continue or be completed.

No procedure can be initiated for an economic offence against a misdemeanour offender who has been finally pronounced guilty in a procedure initiated for an economic offence which additionally includes the characteristics of such misdemeanour, and where it has been initiated or is in progress, it may not continue or be completed.

Diplomatic Immunity

Article 9

No misdemeanour proceeding shall be conducted or a misdemeanour sanction shall be pronounced against persons enjoying diplomatic immunity, in cases where there is reciprocity.

Chapter II

COMMITTING A MISDEMEANOUR

The Act of Committing a Misdemeanour

Article 10

A misdemeanour can be committed by action or non-action.

A misdemeanour shall be committed by non-action where the omission to undertake an action is provided for by a regulation as a misdemeanour.

The Time of Committing a Misdemeanour

Article 11

A misdemeanour shall be committed at the time when the offender acted or was obliged to act, irrespective of the time when the consequence has occurred.

The Place of Committing a Misdemeanour

Article 12

A misdemeanour shall be committed both in the place where the offender acted or was obliged to act and in the place where the consequence occurred.

Legitimate Self-defence

Article 13

There shall be no misdemeanour if the action prescribed to be a misdemeanour was committed as legitimate self-defence.

Legitimate self-defence shall be the defence that is indispensable for the offender to repel a concurrent unlawful attack off his/her good or off the goods of another.

The offender who exceeded the limits of legitimate self-defence may be punished more leniently. Where such limits were exceeded under some particularly extenuating circumstances, the offender may be relieved from the penalty.

Extreme Necessity

Article 14

There shall be no misdemeanour where an act prescribed as a misdemeanour was committed in extreme necessity.

Extreme necessity shall exist where a misdemeanour was committed so that the offender could remove from his good or from the good of another a concurrent unprovoked danger which could not have been eliminated in any other manner and if the harm thus done is not greater than the harm that was threatening.

The offender that exceeded the limits of extreme necessity can be punished more leniently. Where such limits were exceeded under some particularly extenuating circumstances, the offender may be relieved from the penalty.

Force and Threat

Article 15

There shall be no misdemeanour where the offender acted under the influence of an irresistible force.

The offender that committed a misdemeanour under the influence of a force that could not have been resisted or under the influence of a threat may be punished more leniently, providing that the force and threat cannot be considered to be an unprovoked threat within the meaning of Article 14 of this Law.

Attempt

Article 16

An offender shall be punished for an attempted misdemeanour only where that is specifically prescribed.

Chapter III

MISDEMEANOUR LIABILITY

Subjects of Liability

Article 17

A natural person, an entrepreneur, a legal person and a responsible person with a legal person may be liable for a misdemeanour.

The Republic of Serbia, territorial autonomies and local self-government units and their authorities cannot be liable for a misdemeanour, but it can be legally prescribed that the responsible person with the state authority, authority of the territorial autonomy or with an authority of the local self- government unit may be liable for a misdemeanour under the conditions referred to in Article 18, paragraph 1 of this Law.

Liability of a Natural Person

Article 18

A natural person shall be liable for a misdemeanour for which the fault is attributable to him/her because he/she was mentally competent and the misdemeanour was committed with premeditation or negligently, despite being aware or being obliged to be aware and could have been aware that such an act is prohibited.

Unless specified otherwise by this Law, the provision from paragraph 1 of this Article shall additionally apply to an entrepreneur, responsible persons with a legal person, state

authority, an authority of the territorial autonomy and a local self-government unit or with an entrepreneur.

Mental Incompetence, Unprovoked Incompetence and Significantly Reduced Competence

Article 19

A mentally incompetent offender shall not be responsible for a misdemeanour.

A mentally incompetent offender shall be the offender who could not comprehend the significance of his/her act or could not control his/her actions due to a mental illness, temporary mental alienation, developmental disorders or another serious mental disturbance.

The punishment may be made more lenient for a misdemeanour offender whose capacity to understand the significance of his/her act or the capacity to control his/her actions was significantly reduced due to a state referred to in paragraph 2 of this Article (the significantly reduced competence).

A misdemeanour offender who led himself/herself in a state in which he/she could not comprehend the significance of his act or could not control his/her actions through the use of alcohol or in some other manner, if at the time when he/she led himself/herself to such a state was aware or was obliged to be aware and could have been aware that he/she could commit a misdemeanour, shall not be considered to be incompetent.

Negligence and Premeditation

Article 20

Negligence of the offender shall be sufficient for liability to exist providing that the regulation on misdemeanour does not specify that he/she shall be punished only if the misdemeanour is committed with premeditation.

A misdemeanour shall be committed negligently where the offender was aware that a prohibited consequence could arise from his action or non-action, but he carelessly maintained that he could prevent it or that it would not occur, or where he was not aware of the possibility of occurrence of the prohibited consequence, despite being obliged and despite that he could have been aware of such a possibility, judging by the circumstances and his own personal characteristics.

A misdemeanour shall be committed intentionally when the offender was aware of his act and wanted to commit it or when he was aware that due to his action or non-action a prohibited consequence could occur and he consented to its occurrence.

Mistake of Fact

Article 21

An offender who, at the time of the misdemeanour committed, made a mistake of fact that could not have been removed, shall not be liable for misdemeanour.

A mistake of fact shall be unrecoverable where the offender was not obliged to avoid and could not avoid the mistake in respect of an actual circumstance that, had it actually exited, would make the offender’s act permissible.

Mistake of Law

Article 22

An offender who, at the time of the misdemeanour committed, made a mistake of law that could not have been removed, shall not be liable for misdemeanour.

A mistake of law shall be unrecoverable where the offender was not obliged to be aware and could not be aware that such an act was prohibited.

If the mistake could have been removed, the offender may be punished more leniently for the misdemeanour committed.

Co-offence

Article 23

If several persons, by participating in an act of committing a misdemeanour, jointly commit a misdemeanour or, by realizing a joint decision, have significantly contributed to committing a misdemeanour by some other act, each of them shall be punished for such misdemeanour with the punishment prescribed.

Incitement

Article 24

Whoever incites another with premeditation to commit a misdemeanour shall be punished as if he/she has committed it himself/herself.

Aiding

Article 25

Whoever aids another with premeditation in committing a misdemeanour shall be punished as if he/she has committed it himself/herself.

Limits of Liability of the Accomplices

Article 26

An instigator and an accessory shall be liable within the limits of their premeditation, and an accomplice shall be liable for a misdemeanour within the limits of their premeditation or negligence.

In regard to the nature of the misdemeanour, the manner and circumstances under which aid was provided, the accessory can be punished more leniently.

Liability of a Legal Person

Article 27

A legal person shall be liable for a misdemeanour committed by an action or omission of due supervision of the management body or a responsible person or by an action of another person that, at the time when the misdemeanour was committed, was authorized to act in the name of the legal person.

A legal person shall additionally be liable for a misdemeanour when:

1) the management body passes an unlawful decision or an order whereby committing misdemeanour is enabled or when the responsible person orders a person to commit a misdemeanour;

2) a natural person shall commit a misdemeanour due to an omission by the responsible person to supervise or control him/her.

Under conditions referred to in paragraph 2 of this Article, a legal person may additionally be liable for a misdemeanour when:

1) the misdemeanour proceeding against the responsible person has been discontinued or when such person has been relieved from liability in compliance with the provisions of Article 250 of this Law;

2) there are legal or actual obstacles for determining liability of the responsible person with the legal person or where it cannot be determined who the responsible person is.

The liability of a natural or responsible person with a legal person for a misdemeanour committed, for a criminal offence or for an economic offence shall not preclude the liability for misdemeanour of the legal person.

Article 28

The liability for misdemeanour of a legal person shall cease with the termination of such legal person during the misdemeanour proceeding, except in the case where there is a legal successor, when the legal successor shall be liable for the misdemeanour.

Where the legal person ceases to exist following a finally concluded misdemeanour proceeding, the sanction imposed shall be enforced against the legal successor.

The legal person that is in bankruptcy may be liable for a misdemeanour committed prior to the commencement or during the bankruptcy procedure, but no sanction can be imposed to it, but only a safeguard measure of the seizure of objects and confiscation of proceeds.

Liability of an Entrepreneur

Article 29

An entrepreneur shall be liable for a misdemeanour committed in the course of his/her business activity.

Liability of a Responsible Person

Article 30

The responsible person, within the meaning of this Law, shall be considered to be the person with the legal person entrusted with certain tasks which pertain to management, business or work process, as well as the person which, in a state authority, authority of a territorial autonomy and in a local self-government unit, performs certain duties.

The responsible person, who acted based on orders of another responsible person or a management body and if he/she took all the actions that he/she was obliged to take based on the law, other regulation or act in order to prevent a commitment of a misdemeanour, shall not be responsible for the misdemeanour.

Liability of a responsible person shall not cease on account of the termination of his/her employment with the legal person, state authority or an authority of the local self-government unit, or due to the occurrence of impossibility to pronounce the legal person responsible due to its termination.

Responsibility of Foreign Persons

Article 31

A foreign natural person, foreign legal person and responsible person shall be liable for misdemeanours equally as a domestic natural, legal and responsible person.

A foreign legal person and responsible person shall be punished for a misdemeanour committed in the territory of the Republic of Serbia if the legal person has a business unit or a representative office in the Republic of Serbia or where the misdemeanour is committed by means of their means of transport, unless stipulated otherwise by the regulation governing such misdemeanour.

Chapter IV

MISDEMEANOUR SANCTIONS

Article 32

Misdemeanour sanctions shall be:

1) sentences;

2) penalty points;

3) notice;

4) safeguard measures;

5) correctional measures.

1. Sentences

Article 33

A prison sentence, fine and community service can be prescribed for a misdemeanour.

Within the general purpose of misdemeanour sanctions (Article 5, paragraph 2), the purpose of punishment shall be to express public reprimand the offender on the grounds of misdemeanour committed and to deter him/her and any other person from committing misdemeanours in the future.

Method of Prescribing Penalties

Article 34

Both a prison sentence and a fine can be prescribed for a single misdemeanour and both can be imposed simultaneously.

Only a fine can be prescribed for a misdemeanour of a legal person.

Competence for Prescribing Penalties

Article 35

A prison sentence can only be prescribed by a law.

Fines and community service can be prescribed by a law or a regulation and/or by a decision of the Assembly of the Autonomous Province, municipal assembly, city/town assembly or the Assembly of the City of Belgrade.

Imposing of Penalties

Article 36

A prison sentence may only be imposed as a principal penalty.

A fine and community service can be imposed both as principal and as a secondary penalty.

Where a fine and a prison sentence are prescribed alternatively, the prison sentence shall only be imposed for a misdemeanour whereby graver consequences have been caused or for misdemeanours indicative of a higher degree of the offender’s guilt in compliance with Article 18, paragraph 1 of this Law.

Prison Sentence

Article 37

A prison sentence cannot be prescribed for a term shorter than one or longer than sixty days.

A prison sentence may not be imposed against a pregnant woman, following the first trimester of pregnancy, or against a mother until her child turns one year of age, and if the child was stillborn or died after delivery until expiry of six months from the date of such delivery.

Community Service

Article 38

Community service shall be unpaid work benefitting the society that is not performed under coercion, which does not insult human dignity and does not yield profit.

Community service may not last less than 20 hours or longer than 360 hours.

On the occasion of imposing community service, the court shall bear in mind the type of misdemeanour committed, the age, physical capacity and ability to work, mental characteristics, education, preferences and other specific circumstances relating to the personality of the offender.

If the person punished fails to perform a part or all the hours comprising the imposed community service penalty, the court shall replace this penalty with a prison sentence, by determining one day of imprisonment for the beginning of each eight hours' period of work of community service.

Fine

Article 39

A fine can be prescribed by a law or a regulation to range:

1) from RSD 5,000 to RSD 150,000 for a natural person or a responsible person;

2) from RSD 50,000 to RSD 2,000,000 for a legal person;

3) from RSD 10,000 to RSD 500,000 for an entrepreneur.

By way of exception from the provisions of paragraph 1 of this Article, a fine can be prescribed as a fixed amount for a natural person and a responsible person from RSD 1,000 to RSD 50,000, for an entrepreneur from RSD 5,000 to RSD 150,000 and for a legal person from RSD 10,000 to RSD 300,000.

The decisions of an Assembly of an Autonomous Province, municipal assembly, city/town assembly or the Assembly of the City of Belgrade can only prescribe fines in fixed amounts and specifically, from the minimum to a half of the maximum fixed amount prescribed in paragraph 2 of this Article.

By way of exception from the provisions of paragraph 1 of this Article, for the misdemeanours in the field of public revenues, public information, customs, foreign trade and foreign currency operations, environment, transactions in goods and services and transactions in securities, fines proportionate to the amount of damage incurred or unsettled liabilities, the value of goods or another object comprising the scope of the misdemeanour can be prescribed by the law, which, however, may not exceed twentyfold amount of these amounts, providing that it does not exceed the fivefold amount of the maximum fines imposable pursuant to the provision of paragraph 1 of this Article.

Time Limit for Payment of a Fine

Article 40

The time limit for payment of a fine shall be specified in the sentence and in the misdemeanour notice, which may not exceed 15 days from the date of the final judgement, and where the appeal is filed, from the date of the second instance sentence and/or eight days from the date of delivery of the misdemeanour notice.

The court may, by means of a resolution, permit payment of a fine in instalments in some duly justified cases, where it shall specify the method and time limit for payment, which may not exceed six months, on condition that the costs of the proceedings are paid.

No appeal shall be permitted against the resolution referred to in paragraph 2 of this Article.

If the person punished which has been permitted to pay the fine in instalments fails to regularly effectuate such payments, the court may revoke its decision on payment in instalments by means of a resolution.

No appeal shall be permitted against the resolution referred to in paragraph 4 of this Article.

Substitution for an Unpaid Fine

Article 41

A fine that the punished natural person, entrepreneur or a responsible person with a legal person has failed to settle (in its entirety or in a part thereof) can be substituted by the court with a prison sentence by determining one day of imprisonment per each amount of RSD 1,000, where such prison sentence may not last shorter than one day or longer than sixty days.

Where a prison sentence has been imposed in addition to the fine against the person punished, the imprisonment substituting the unpaid fine and the imposed prison sentence may not last longer than ninety days.

Where the court assesses it to be justified, in view of the gravity of the misdemeanour, the unpaid fine amount and financial standing of the sentenced person, the court may, instead of the prison sentence, determine that the unpaid fine is to be substituted by community service, where eight hours of work shall substitute one day of imprisonment, i.e. RSD 1,000 of the fine and such work may not exceed 360 hours.

The portion of unpaid fine which could not be substituted by the prison sentence or community service shall be collected by enforcement.

If, following the court decision on substitution of an unpaid fine, the natural person punished pays the fine, the prison sentence or the community service shall not be executed. Where the execution of a sentence has commenced, and the person punished pays the remaining amount of the fine imposed, the execution of the prison sentence and community service shall be suspended.

No substitution of an unpaid fine with a prison sentence can be imposed for fines imposed against underage persons and legal persons.

An unpaid fine imposed against an underage person shall be collected through confiscation of property of the minor, his/her parents or another person in charge of taking care of him/her.

Provisions of the law prescribing execution of criminal penalties shall apply mutatis mutandis on substitution of an unpaid fine.

Weighing of a Penalty

Article 42

A penalty for a misdemeanour shall be weighed within the limits prescribed for such misdemeanour, where all the circumstances impacting the penalty to be more severe or lighter shall be taken into account, and in particular: the gravity and the consequences of the misdemeanour, circumstances under which the misdemeanour was committed, degree of the offender's responsibility, previous convictions, personal circumstances of the offender and the comportment of the offender following the misdemeanour.

No misdemeanour sanction previously imposed against an offender can be taken into account as an aggravating circumstance where more than four years have passed from the date of the legal enforceability of the decision until the date of handing down of the new decision.

In weighing of the fine amount, the financial standing of the offender shall additionally be taken into account.

Mitigation of a Penalty

Article 43

Where it is determined on the occasion of weighing of a penalty that no graver consequences have been caused by the misdemeanour and where there are mitigating circumstances indicating that even a lighter penalty may achieve the purpose of the punishment, the prescribed penalty may be mitigated by optionally:

1) imposing a punishment below the minimum measure of a penalty prescribed for such misdemeanour, which may not however be below the minimum statutory measure for such type of penalty;

2) imposing a fine or community service instead of the prescribed prison sentence which may not be below the minimum statutory measure for such type of penalty;

3) imposing only one penalty instead of the prescribed prison sentence and a fine.

Release from Punishment

Article 44

The court may pronounce an offender to be responsible and release him/her from punishment under conditions referred to in Articles 13 and 14 of this Law.

The court may additionally release from punishment an offender of a misdemeanour for which a fine is prescribed where after having committed such misdemeanour and prior to becoming aware of the accusation, he/she has removed the consequences of the act or has compensated the damage caused by the misdemeanour.

The court may additionally release from punishment an offender of a misdemeanour committed negligently where the consequences of the act are affecting the offender so severely that the imposition of penalty in such a case would obviously not suit the purpose of punishment.

Concurrence of Misdemeanours

Article 45

If by one act or by several acts an offender has committed a number of misdemeanours for which he/she is simultaneously tried, penalties for such individual misdemeanours shall initially be determined and a single penalty shall then be imposed for all these misdemeanours.

The single penalty shall be imposed according to the following rules:

1) if for all the concurrent misdemeanours a prison sentence is determined, a single prison sentence shall be imposed, which may not exceed ninety days;

2) if for all the concurrent misdemeanours a fine is determined, a single fine shall be imposed which shall be the sum of the fines determined, where the single fine may not be higher than the double amount of the maximum fine stipulated by this Law;

3) if for all the concurrent misdemeanours community service is determined, single community service shall be imposed which may not be longer than 360 hours;

4) if a prison sentence is determined for the concurrent misdemeanours and a fine for other misdemeanours, a single prison sentence and a single fine shall be imposed in the manner prescribed in items 1) and 2) of this paragraph.

Misdemeanour of Extended Duration

Article 46

A misdemeanour of extended duration shall exist where the offender commits a number of identical, coinciding misdemeanours with a single premeditation, which comprise a single body on the grounds of two of the following circumstances at least: the sameness of aggrieved party, sameness of the subject matter of misdemeanour, exploitation of the same situation or lasting relationship, uniformity of place or space where the misdemeanour is committed.

Provision of paragraph 1 of this Article may apply only to misdemeanours of the nature which allows their consolidation.

A misdemeanour whereby damage is incurred to immaterial legal goods of a natural person or a legal person may be committed in extended duration only where it has been committed against the same person.

A misdemeanour which is not covered by the misdemeanour of extended duration in the final court decision shall be a separate misdemeanour, i.e. it shall be included in a separate misdemeanour of extended duration.

A penalty stricter than the prescribed one can be imposed for the misdemeanour referred to in paragraph 1 of this Article, which however may not exceed the double measure of the prescribed penalty or the maximum measure of the penalty provided for in Article 45, paragraph 2 of this Law for weighing punishments for the concurrently committed misdemeanours.

Reckoning Detention in Penalty

Article 47

The time during which an offender of a misdemeanour is detained prior to handing down of the judgement shall be reckoned in the punishment imposed.

Any detention lasting longer than 12 and shorter than 24 shall be reckoned in one day of imprisonment and/or as RSD 1,000 of a fine and/or eight hours of community service.

2. Penalty Points

Article 48

Penalty points ranging from 1 to 25 can be prescribed by the law for misdemeanours against road traffic safety.

The sanction referred to in paragraph 1 of this Article shall be imposed with the penalty or admonition under the conditions stipulated by this Law unless laid down otherwise by another law.

Supplemental obligations can be imposed against the offender in addition to the sanction referred to in paragraph 1 of this Law with the aim of educating the driver or monitoring his/her behaviour in traffic. The types of supplemental obligations and the conditions for the imposition thereof shall be laid down by a separate law.

Penalty points can be imposed against a driver who, at the time when the misdemeanour was committed, possessed the driver's licence issued in the Republic of Serbia or against a

driver who has been disqualified from driving a motor-driven vehicle by means of a final decision.

Concurrence of Penalty Points

Article 49

If penalty points are determined for concurrent misdemeanours, single penalty points shall be imposed, which shall correspond to the sum of all the individually determined penal points, which may not exceed 25 points.

3. Admonition

Article 50

Instead of a fine, admonition can be imposed for a misdemeanour if there are circumstances mitigating to a significant degree the offender's responsibility, so that it can be expected that he/she shall avoid committing misdemeanours in the future even without imposition of penalty.

Admonition can additionally be imposed if the misdemeanour is reflected in a failure to comply with a prescribed obligation or where damage is incurred through the misdemeanour and the offender has fulfilled the obligation prescribed and/or removed or compensated damage incurred following the institution of the proceedings and prior to handing down of a judgement.

4. Safeguard Measures

Purpose and Prescribing

Article 51

Within the general purpose of the misdemeanour sanctions (Article 5, paragraph 2), the purpose of applying a safeguard measure shall be to eliminate conditions that are enabling or instigating the offender to commit a new misdemeanour.

A safeguard measure can be laid down by a law and by a regulation.

Types of Safeguard Measures

Article 52

The following safeguard measures can be laid down for misdemeanours:

1) seizure of objects;

2) ban on performing certain business activities;

3) ban for a legal person on performing certain business activities;

4) ban for a responsible person on performing certain tasks;

5) disqualification from driving a motor-driven vehicle;

6) mandatory medical treatment of alcoholics and addicts of psychoactive substances;

7) mandatory psychiatric treatment;

8) an order restraining access to the aggrieved party, facilities or place of misdemeanour committing;

9) ban on attending certain sporting events;

10) public pronouncement of judgement;

11) removal of foreigners from the territory of the Republic of Serbia;

12) seizure of animals and ban on keeping animals;*

13) ban on participating in public procurement procedures. *

The safeguard measures of seizing objects, mandatory treatment of alcoholics and addicts of psychoactive substances, mandatory psychiatric treatment, order restraining access to the aggrieved party, facilities or place of misdemeanour committing and removal of foreigners from the territory of the Republic of Serbia can be imposed under conditions prescribed by this Law even where they are not laid down by the regulation stipulating the misdemeanour.

The safeguard measures of the ban on performing certain business activities and public pronouncement of judgement may not be imposed against a minor.

Imposition of Safeguard Measures

Article 53

When there are conditions to impose the safeguard measures laid down by this Law or by another law, one or a number of safeguard measures can be imposed against the misdemeanour offender.

The safeguard measures shall be imposed in addition to the penalty imposed, admonition or correctional measure.

By way of exception from paragraph 2 of this Article, the safeguard measures can be imposed individually, if that such an option has been provided for.

Seizure of Objects

Article 54

The objects that were used in or intended for committing misdemeanours or those that originated from committing misdemeanours can be seized from the misdemeanour offenders.

The court that handed down the judgement shall determine, in compliance with separate regulations, whether the seized objects will be destroyed, sold or hand over to an interested authority, i.e. organisation.

If the offender has arbitrarily alienated or destroyed the objects or has otherwise thwarted their seizure, the judgement shall determine that he/she shall pay the monetary amount corresponding to the value of the objects.

The regulation stipulating the misdemeanour may provide for mandatory imposition of a safeguard measure of seizure of objects.

The objects referred to in paragraph 1 of this Article can be additionally seized when the misdemeanour proceedings is not terminated by a judgement pronouncing the defendant responsible if that is called for by the interest of general security or by the ethical reasons, as well as in other cases laid down by a separate law. A separate resolution shall be handed down thereon against which the defendant shall be entitled to file an appeal.

The seizure of objects shall not interfere with the right of the third parties to compensation of damage by the offender.

Ban on Performing Certain Business Activities

Article 55

The ban on performing certain business activities shall consist of a temporary ban on the misdemeanour offender from performing a certain economic or other activity for which permission is to be issued by a competent authority or which is to be entered in the relevant register.

If the regulation stipulating the misdemeanour has not specifically laid down conditions for imposing a safeguard measure referred to in paragraph 1 of this Article, the measure can be

* Published in the *Službeni glasnik RS*, No. 91/19 of 24 December 2019.

imposed if the misdemeanour offender abuses the activity to commit the misdemeanour or if it can be reasonably expected that any further performance of such activity would present a threat to human life or health or to other legally protected interests.

The ban on performing a certain business activity can be imposed in a term from six months up to three years, reckoning from the date of the enforceability of the judgement.

The time spent serving a prison sentence shall not be reckoned in the term of the measure imposed.

Ban on Performing Certain Business Activities to a Legal Person

Article 56

A ban to a legal person on performing certain business activity shall comprise of a prohibition on manufacturing certain products or conducting certain tasks in the fields of transactions in goods, finances and services or alternatively of a prohibition on performing other specified tasks.

If the regulation laying down the misdemeanour has not specifically stipulated conditions for imposition of a safeguard measure, the measure can be imposed if further performance of a certain business activity would present a threat to human lives or health, detrimental for economic or financial business operations of other legal persons or for the economy as a whole.

The ban on performing certain business activity can be imposed to a legal person for a term of six months to three years, counting from the date of enforceability of judgement.

Ban on Performing Certain Duties to a Responsible Person

Article 57

A ban on performing certain duties to a responsible person shall comprise of a prohibition to a misdemeanour offender on performing duties that he/she performed at the time when the misdemeanour was committed or alternatively on performing a management duty in economic or financial business operations or on performing a specified type of tasks or all or certain duties relating to disposal, use, management or handling entrusted assets.

If the regulation laying down the misdemeanour does not specify otherwise, the ban on performing certain duties shall be imposed to a responsible person when the responsible person has abused the duty for the purpose of committing the misdemeanour.

A ban on performing certain duties can be imposed on a responsible person for a term of six months to three years, counting from the date of enforceability of judgement.

The time spent serving a prison sentence shall not be reckoned in the term of the measure imposed.

Disqualification from Driving a Motor-Driven Vehicle

Article 58

The disqualification from driving a motor-driven vehicle shall comprise temporary banning the offender from driving a motor-driven vehicle of a certain type or category to the offender.

If the regulation laying down the misdemeanour has not specifically stipulated conditions for imposing a safeguard measure, the measure can be imposed on the misdemeanour offender who committed a misdemeanour against traffic safety where there is a threat that he/she shall, when driving the motor-driven vehicle, commit the misdemeanour again or because his/her previous infringement of these regulations is indicative of the danger of his/her driving the motor vehicle of a certain type or category.

The safeguard measure referred to in paragraph 1 of this Article can be imposed for a term of 30 days to one year.

The time spent serving a prison sentence shall not be reckoned in the term of the measure imposed.

Mandatory Treatment of an Alcoholic and Addict on Psychoactive Substances

Article 59

Mandatory treatment of an alcoholic and addict on psychoactive substances can be imposed on a person who committed a misdemeanour due to his/her addiction on continuous use of alcohol or psychoactive substances and concerning whom there is a threat that due to such addiction he/she shall continue to commit misdemeanours.

Prior to imposing the measure referred to in paragraph 1 of this Article, the court shall acquire the opinion from an expert witness, i.e. from the competent medical organisation.

When imposing the measure referred to in paragraph 1 of this Article, mandatory treatment in a relevant medical or another specialized institution shall be ordered to the misdemeanour offender. If the misdemeanour offender refuses the treatment without some duly justified reasons, the measure shall be carried out through enforcement.

The maximum term of the safeguard measure referred to in paragraph 1 of this Article may not exceed one year and enforcement of the measure imposed shall be discontinued even before the expiry of the term specified in the judgement where the medical organisation determines that the treatment is completed.

Mandatory Psychiatric Treatment

Article 60

The court shall impose mandatory psychiatric treatment on the misdemeanour offender who committed a misdemeanour in a state of insanity, if it determines that there is a serious threat that the offender shall repeat the misdemeanour and where his/her psychiatric treatment is necessary for the purpose of eliminating the threat.

Mandatory psychiatric treatment shall be the only misdemeanour sanction that can be imposed independently on an insane misdemeanour offender.

Under conditions referred to in paragraph 1 of this Article, the court may impose mandatory psychiatric treatment on a misdemeanour offender whose sanity was significantly reduced, if a fine, community service, admonition or release from punishment has been imposed on him/her.

Mandatory psychiatric treatment shall be outpatient and it shall last until there is a need for the treatment, but not longer than one year.

For the purpose of a more successful treatment, it can be imposed that the periodic treatment is to be carried out in a medical institution, where the continuous treatment in an institution may not last longer than 15 days and it can be undertaken two times a year at the maximum.

If in the case referred to in paragraphs 1 and 3 of this Article, the offender does not subject himself/herself to the outpatient treatment or if he/she arbitrarily abandons it, the court may determine that the safeguard measure be carried out in a medical institution under conditions referred to in paragraph 4 of this Article.

Restraint on Access to the Aggrieved Party, Facilities or Place of Committing Misdemeanour

Article 61

The restraint on access to the aggrieved party, facilities or place of committing misdemeanour shall be imposed for the purpose of preventing the offender from committing the misdemeanour again or from continuing to menace the aggrieved party.

The measure referred to in paragraph 1 of this Article shall be imposed upon a written proposal by the person that filed the motion to institute a misdemeanour proceedings or upon an oral request of the aggrieved party made on the occasion of a hearing in a misdemeanour proceedings.

The court decision pronouncing the restraining order must include: the time period of its enforcement, information on persons to which access shall be restrained to the offender, an indication of the facilities to which access shall be restrained and of the time thereof, the places or locations in which access by the offender shall be restrained.

The imposed measure of restraining access to the aggrieved party shall additionally include the measure of restraining order to the joint apartment or household for a period during which the restraining order is in effect.

The safeguard measure of restraining order can be imposed for a term of up to one year, counting from the enforceability of judgement.

The aggrieved party, the police directorate in charge of enforcement of the measure and the competent guardianship authority where the measure pertains to restraining the offender from accessing children, the spouse or family members shall be notified of the court decision whereby the restraining order is imposed.

Violation of a Restraining Order for Access to the Aggrieved Party, Facilities or Place of Committing Misdemeanour

Article 62

The convicted on whom a restraining order has been imposed by means of a final judgement and who approaches the aggrieved party, facilities or place of committing misdemeanour during the term of the measure or makes a contact with the aggrieved party in the prohibited manner or at a prohibited time shall be imposed a sanction under the regulation laying down the misdemeanour for which this measure has been imposed.

Ban on Attending Certain Sporting Events

Article 63

The ban on attending certain sporting events shall comprise of the obligation of the misdemeanour offender to, immediately prior to the time of commencement of certain sporting events, report in person to the official person in the regional police directorate, i.e. police station in the territory in which the misdemeanour offender happens to be and to remain in their premises during the sporting event.

The safeguard measure referred to in paragraph 1 of this Article can be imposed for a duration from one to eight years.

The time spent serving a prison sentence shall not be reckoned in the term of the measure imposed.

The convicted on whom the measure of ban on attending certain sporting events has been imposed by means of a final judgement, who fails to comply with the obligation referred to in paragraph 1 of this Article, shall be punished by imprisonment from thirty to sixty days.

The court shall be obliged to notify the regional police directorate according to the place of domicile of the convicted person of the imposed safeguard measure referred to in paragraph 1 of this Article.

The regulation laying down the misdemeanour may stipulate mandatory imposition of the safeguard measure of ban on attending certain sporting events.

Public Pronouncement of Judgement

Article 64

The court shall impose the safeguard measure of publication of judgement where it is of the opinion that it would be useful to inform the general public of the judgement, and in particular if the publication of judgement would contribute to eliminating the threat for human lives or health or to protect the security of transactions in goods and services or the economy.

Subject to the significance of the misdemeanour, the court shall decide whether the judgement will be published in press, on radio or television or in a number of the specified mass media, as well as whether the reasoning of the judgement will be published in its entirety or as an excerpt, by taking care that the method of publication provides that all those in whose interest such judgement should be published are duly informed.

A judgement can be published within 30 days at the maximum from the date of the legal enforceability of the judgement.

The regulation laying down the misdemeanour may provide for mandatory imposition of a safeguard measure of public announcement of the judgement.

The costs of public announcement of judgement shall be borne by the convicted.

Removal of Foreigners from the Territory of the Republic of Serbia

Article 65

Removal of foreigners from the territory of the Republic of Serbia can be imposed on a foreigner who has committed a misdemeanour due to which his/her further stay in the country is undesired.

The safeguard measure referred to in paragraph 1 of this Article can be imposed for the duration ranging from six months to five years.

The term of the imposed measure shall run from the date of the legal enforceability of the decision, where the time spent serving a prison sentence shall not be reckoned in the term of the measure.

A separate law can prescribe conditions under which the enforcement of the safeguard measure referred to in paragraph 1 of this Article can be delayed for a definite period of time.

Seizure of Animals and Ban on Keeping Animals

Article 66

Seizure of animals from the owner or keeper who has been pronounced responsible for a misdemeanour in the field of protection of animal wellbeing shall be imposed for the purpose of preventing the misdemeanour offender from repeating the misdemeanour, i.e. from continuing jeopardizing the wellbeing of the animals in some other manner.

The court that has passed the judgement shall determine, in compliance with the separate regulations, whether the animal seizes shall be handed over to the competent animal shelter or to an interested organization.

The regulation whereby the misdemeanour is laid down may stipulate mandatory imposition of the safeguard measure of seizure of animals.

The ban on keeping one, several or all types of animals on a person who has been pronounced responsible for a misdemeanour in the field of animal welfare protection shall be imposed for the purpose of preventing the offender from repeating the misdemeanour, i.e. from continuing to jeopardize the wellbeing of animals in some other manner.

This measure can be imposed for a term ranging from one to three years, counting from the enforceability of the judgement.

The person who has been imposed the ban on keeping animals by means of a final judgement, who acts contrary to the ban referred to in paragraph 1 of this Article shall be

imposed a sanction under the regulation laying down the misdemeanour for which this measure has been imposed.

The regulation laying down the misdemeanour may provide for the mandatory imposition of the ban on keeping all, i.e. certain types of animals as a permanent safeguard measure.

*Ban on Participating in Public Procurement Procedures**

*Article 66a**

*Ban on participating in public procurement procedures shall consist of a temporary ban to the misdemeanour offender to participate in public procurement procedures. **

*Safeguard measure referred to in paragraph 1 of this Article may last up to two years counting from the enforceability of judgement. **

Concurrence of Safeguard Measures

Article 67

Where one judgement for a number of misdemeanours determines a number of safeguard measures of the same type which are prescribed to be imposed for a specified duration, a single safeguard measure shall be imposed which shall be equal to the sum of terms of individually determined safeguard measures, where it may not exceed the maximum statutory limit for the duration of such type of safeguard measure.

Chapter V
CONFISCATION OF PROCEEDS FROM MISDEMEANOUR

The Grounds for Confiscation of Proceeds

Article 68

No one may keep the proceeds acquired from a misdemeanour.

The proceeds referred to in paragraph 1 of this Article shall be confiscated by means a judgement whereby the misdemeanour and the liability for it has been determined, under conditions laid down by this Law.

Method of Confiscation of Proceeds

Article 69

Money, securities, valuables and any other proceeds acquired through committing a misdemeanour shall be confiscated from the misdemeanour offender. Where such confiscation is not possible, the offender shall undertake to pay the monetary amount corresponding to the proceeds acquired.

If the convicted fails to pay the monetary amount referred to in paragraph 1 of this Article within the specified time limit, it shall be collected through enforcement.

Any proceeds acquired through committing misdemeanours can be confiscated from the person to whom it has been transferred without any compensation or with a compensation that does not correspond to the actual value thereof.

* Published in the *Službeni glasnik RS*, No. 91/19 of 24 December 2019.

Protection of the Aggrieved Party

Article 70

If the aggrieved party in a misdemeanour proceedings has been awarded a property claim, confiscation of proceeds shall be imposed only where such proceeds exceed the property claim awarded to the aggrieved party.

Chapter VI

PROVISIONS ON MINORS

Liability of a Minor for a Misdemeanour

Article 71

No misdemeanour proceedings can be conducted against a minor who at the time when he/she committed the misdemeanour did not turn fourteen years of age (a child).

Provisions of this Chapter shall apply to the minors aged from fourteen to eighteen years of age who commit misdemeanours and other provisions of this Law only where they are not contrary to these provisions.

Liability of Parents, Adoptive Parents, Guardians or Foster Parents and the Minor

Article 72

When a child has committed a misdemeanour due to an omission to supervise him/her by the parents, adoptive parents, guardians i.e. foster parents, where these persons were capable of exercising such supervision, the parent, adoptive parent, guardian i.e. foster parent of the child shall be punished for the misdemeanour as if they have committed it themselves.

The lay may prescribe that the parents, adoptive parent, guardian i.e. a foster parent of a minor aged from fourteen and up to eighteen years of age shall also be punished for a misdemeanour committed by a minor if the misdemeanour committed has been a consequence of an omission to exercise due supervision over the minor, where they were capable of exercising such supervision.

In addition to the parent, adoptive parent, guardian i.e. foster parent, the law may prescribe that other persons for whom the obligation to exercise supervision over a minor who has committed a misdemeanour is prescribed shall also be liable for a misdemeanour by a minor.

Misdemeanour Sanctions against Minors

Article 73

Only correctional measures can be imposed against a minor who, at the time of committing the misdemeanour, has reached the age of fourteen and who has not turned sixteen years of age (a young minor).

A correctional measure, penalty points or a penalty can be imposed on a minor who, at the time of committing the misdemeanour, has reached the age of sixteen and has not reached eighteen years of age (an older minor).

Where it is necessary due to the nature of the misdemeanour, a safeguard measure can be imposed on a minor in addition to the correctional measure or penalty.

Only the court may impose a correctional measure, a fine, penalty points, a sentence of juvenile detention and a safeguard measure on a minor.

Types of Correctional Measures

Article 74

The following correctional measures can be imposed on minors:

1) measures of admonition and referral: a reprimand and special obligations;

2) measures of increased supervision.

The measures of admonition and referral shall be imposed where such measures are necessary to exert influence on the minor's personality and on his/her behaviour and where they are sufficient to achieve the purpose of these measures.

The measures of increased supervision shall be imposed where, for education and development of the minor, some longer-term correctional measures should be taken in addition to the adequate professional supervision and assistance.

Reprimand

Article 75

A reprimand shall be imposed on a minor with respect to whom it is not necessary to take some longer-term correctional measures, and in particular where it can be concluded from his/her attitude towards the misdemeanour committed and his/her readiness not to commit misdemeanours in the future that the correctional measure imposed will achieve the purpose of this measure.

When imposing a reprimand to a minor, it shall be pointed out to the minor to the social inadmissibility of his/her action and, if he/she commits a misdemeanour again, to the option of imposing another correctional measure as well.

Special Obligations

Article 76

If the court assesses that it is necessary to exert influence on the minor and his/her behaviour through relevant requests and prohibitions, it may determine one or a number of special obligations to the minor, and specifically:

1) to apologize to the aggrieved party;

2) within his/her abilities, to repair or compensate the damage that he/she has caused;

3) not to frequent certain places and to avoid the company of certain persons who are exerting negative influence on him/her;

4) to undergo rehabilitation and treatment for addiction to alcohol and other psychoactive substances;

5) to be referred to a competent institution for training of drivers for the purpose of learning or testing his/her knowledge of traffic regulations;

6) without remuneration, to join in the work of humanitarian organisations or the operations of ecological, social or local significance;

7) to join the work of athletic and other clubs in the school under pedagogical supervision of the teachers.

The obligations referred to in paragraph 1, item 2) through 7) of this Article may not last longer than six months and must not disrupt the minor's schooling or employment.

Within the obligations referred to in paragraph 1, item 2) of this Article, the court shall determine the amount, forms and method of damage reparation, where the personal work of the minor on repairing the damage may last up to 20 hours at the maximum over a period of one month and must be scheduled in such a manner that it does not interfere with the regular schooling or employment of the minor.

On the occasion of imposing the special obligations, the court shall warn the minor that, due to any failure to fulfil the obligations determined, these can be replaced by another obligation or a correctional measure.

Fulfilling of special obligations shall be conducted under supervision of the authority in charge of guardianship tasks that shall notify the court of the fulfilment of the obligations.

Measures of Increased Supervision

Article 77

The correctional measures of increased supervision shall be imposed where it is necessary to enforce a longer-term correctional measure with respect to the minor.

The court shall impose the measure of increased supervision by the parents, adoptive parents or guardians where the parents, adoptive parent or a guardian have omitted to provide the necessary care for and supervision over the minor and where they are capable of exercising such supervision and where they can reasonably be expected to do so.

Where the parents, adoptive parent or a guardian cannot exercise increased supervision over the minor, increased supervision by the guardianship authority shall be imposed on the minor.

The measures of increased supervision referred to in paragraphs 2 and 3 of this Article may last three months at the minimum and one year at the maximum.

Conditions for Imposition of Correctional Measures

Article 78

On the occasion of imposing the correctional measures, the age of the minor, the level of his/her mental development, the mental characteristics and motives for which he/she has committed the misdemeanour, his/her previous upbringing, the environment and the conditions under which he/she has lived, the gravity of the misdemeanour, whether a correctional measure has already been imposed on him/her, as well as any other circumstances that are impacting the choice of correctional measure by which the purpose of upbringing shall be achieved the best shall be taken into consideration.

For the purpose of determining the circumstances referred to in paragraph 1 of this Article, the court must hear the parents and the adoptive parent of the minor, his/her guardian and other persons that may provide the necessary information.

Suspension of Enforcement and Modification of the Decision on Correctional Measure

Article 79

Where following handing down of the decision whereby the correctional measure is imposed, circumstances arise that did not exist at the time when the decision was handed down or which were not known then, and where they would have impacted the decision, the enforcement of the measures imposed can be suspended or the imposed measure can be substituted by another correctional measure.

Redetermination of Correctional Measures

Article 80

Where more than six months has passed from the legal enforceability of the decision whereby some of the correctional measures or special obligations is imposed and the enforcement thereof has not begun, the court shall re-determine on the need to enforce the measure imposed or the special obligation or to substitute it by another correctional measure or special obligation.

The court shall be obliged to maintain a special record for every minor who has been imposed a correctional measure.

Penalising of Older Minors

Article 81

A penalty can be imposed on an older minor only where at the time when he/she committed the misdemeanour, in view of his/her mental development, he/she could understand the significance of his/her act and control his/her actions and where due to the graver consequences of the misdemeanour or due to a higher degree of guilt, it would not be justified to apply a correctional measure.

Exceptionally, the juvenile detention penalty can be imposed on an older minor, where the nature of the misdemeanour, the personal characteristic and the behaviour of the minor must be born in mind.

The term of the juvenile detention penalty imposed on an older minor must not exceed 30 days.

A fine imposed on an underage misdemeanour offender cannot be substituted by the penalty of juvenile detention and it shall instead be collected by enforcement action, in compliance with the law.

The misdemeanour court shall be obliged to notify the guardianship authority competent according to the domicile of the minor of the correctional measure or penalty imposed on the underage misdemeanour offender.

Imposition of Correctional Measure or Penalty for Concurrent Misdemeanours

Article 82

If a minor has committed a number of concurrent misdemeanours, the court shall, in selecting the correctional measures assess all the misdemeanours integrally and impose one measure only.

If the court determines a penalty for one of the misdemeanours and correctional measures for other misdemeanours, it shall impose the penalty only.

The court shall act in the manner referred to in paragraph 2 of this Article where it is determined following the imposed correctional measure, i.e. penalty that the minor has committed a misdemeanour prior to or following the imposition thereof.

The Effect of the Legal Age

Article 83

If an underage misdemeanour offender has become of the legal prior to or during the misdemeanour proceedings, provisions on minors shall apply, except for the provisions on correctional measures.

If a minor has become of the legal age following handing down of the decision whereby a correctional measure is imposed, the enforcement of such measure shall be discontinued.

Chapter VII

STATUTE OF LIMITATION

Limitations on Institution and Conducting of Misdemeanour Proceedings

Article 84

A misdemeanour proceedings cannot be instituted or conducted if one year has elapsed from the date when the misdemeanour was committed.

Limitation on instituting and conducting of misdemeanour proceedings shall not run during the period when institution and conducting of the proceedings may not be undertaken by the law.

Limitation shall be suspended by means of any procedural action of the court of relevant jurisdiction undertaken for the purpose of conducting the misdemeanour proceedings.

Following each suspension, the limitation shall start to run again.

By way of exception from the provision of paragraph 1 of this Article, for the misdemeanours in the field of customs, foreign trade, foreign currency operations, public revenues and finances, public procurements, trade in goods and services, environment, anti-corruption and air traffic, a longer time limit for the limitation can be prescribed by a separate law.

The time limit referred to in paragraph 5 of this Article cannot be longer than five years.

In any case, the limitations on institution and conducting of a misdemeanour proceedings shall come into effect upon the expiry of the double time period required by the law for limitation.

Provisions of paragraphs 1 through 4 and paragraph 7 of this Article shall apply mutatis mutandis to the limitation on instituting and conducting of the procedure for issuing a misdemeanour notice.

Limitation on Enforcement of a Penalty and Safeguard Measure

Article 85

A penalty and a safeguard measure imposed cannot be enforced where one year has elapsed from the date of legal enforceability of the judgement.

The limitation of enforcement of penalty and safeguard measure shall commence to run from the date of legal enforceability the judgement whereby the penalty and/or the safeguard measure is imposed.

The limitation of enforcement of penalty and safeguard measure shall not run during the time period when the enforcement cannot be undertaken by the law.

The limitation shall be suspended by means of each procedural action of the competent authority undertaken for the purpose of enforcing the penalty and/or the safeguard measure.

Following each suspension, the limitation shall start to run again.

In any case, the limitation on enforcement of penalty and/or safeguard measure shall come into effect following the expiry of the double time period required by the law for enforcement of the penalty and/or the safeguard measure.

Part Two

MISDEMEANOUR PROCEEDINGS

Chapter VIII

THE BASIC PRINCIPLES OF THE PROCEEDINGS

The Principle of Legality

Article 86

This Law shall lay down the rules whereby it shall be ensured that no one innocent is punished and that the misdemeanour sanctions is imposed on the responsible misdemeanour offender under conditions provided for by this Law and on the basis of a legally conducted proceedings.

Legality in Imposition of Misdemeanour Sanctions

Article 87

A misdemeanour sanction can be imposed only by the court of relevant jurisdiction that is conducting the misdemeanour proceedings under this Law.

By way of exception from paragraph 1 of this Article, a fine can be imposed by:

1) ceased to be valid (see Article 246 of the Public Procurement Law - 91/2019-3)

2) an authorized authority, i.e. an authorized person by means of a misdemeanour notice in compliance with the law.

The Accusatory Principle

Article 88

A misdemeanour proceedings shall be instituted and conducted on the basis of:

1) a motion of an authorized authority or an aggrieved party;

2) a misdemeanour notice, in compliance with this Law.

Providing Proof

Article 89

Evidence shall be collected and taken in compliance with this Law.

The burden of proof relating to the characteristics of the misdemeanour and misdemeanour liability shall lie with the person that filed the motion for a misdemeanour proceedings.

The court shall take the evidence at the proposal of the parties.

A party shall be obliged to acquire evidence that they propose to be taken.

Exceptionally, the court may acquire evidence *ex officio* if the defendant is not able to do so himself or where that is justified for the reasons of expediency and efficiency in conducting the proceedings.

The court may take supplemental evidence if it assesses that the evidence taken is contradictory or unclear and that it is necessary in order that the subject matter of evidence would be comprehensively discussed.

Aid to an Unlearned Party

Article 90

The court shall be obliged to ensure that ignorance or inexpertness of the parties is not to the detriment of their rights.

Cost-effectiveness of a Misdemeanour Proceedings

Article 91

The court shall be obliged to conduct the proceedings without stalling, but in such a manner as that it is not to the detriment of handing down a correct and lawful decision.

Free Assessment of Evidence

Article 92

The court shall assess the evidence at its discretion.

The court shall decide which facts it will take as proven based on a conscientious and careful assessment of each piece of evidence separately, all pieces of evidence jointly and based on the results of the entire proceedings.

Right to Defence

Article 93

Prior to handing down a decision, the defendant must be provided with an opportunity to plea on the facts and evidence that he is charged with and to present all the facts and evidence that are in his favour, except in the cases laid down by the law.

In a misdemeanour proceedings, the defendant must be informed of the misdemeanour with which he has been charge and of the grounds for the charge in the first hearing already, except where the proceedings based on this Law is conducted without hearing of the defendant.

If the duly summoned defendant fails to appear and justify his absence or within a time limit left to him fails to provide a written defence, and where his hearing is not necessary for determining the facts that are of importance for handing down a lawful decision, the decision can be handed down even without hearing the defendant. The defendant shall be entitled to defend himself on his own or with professional assistance from a defence counsel of his choice. The court shall be obliged to, on the occasion of the initial hearing, impart advice on the right to a defence counsel to the defendant.

The use of Language in a Misdemeanour Proceedings

Article 94

The court shall conduct the proceedings in Serbian language and it shall use the Cyrillic alphabet, and the Latin alphabet where it is in conformity with the law.

In the territories in which, in compliance with the law, a language of a certain national minority is in official use as well, the proceedings shall be conducted at the request of the party in the language and with the use of the alphabet of such national minority as well.

Where the proceedings is not conducted in the language used by the party and/or other participants in the proceedings, who are nationals of the Republic of Serbia, interpretation of the course of proceedings in their language shall be provided to them through an interpreter.

The parties and other participants in a proceedings who are not nationals of the Republic of Serbia shall be entitled to follow the course of the proceedings through an interpreter and to use their language in such a proceedings.

The person referred to in paragraphs 2 through 4 of this Article shall be advised on the right to interpretation and conducting of proceedings in their language or in a language that he/she can understand, who may then waive such right if he/she understands the language in

which the misdemeanour proceedings is conducted. It shall be noted in the transcript that such advice has been provided along with the statement made by the participants.

Interpretation shall be provided by an interpreter designated by the court conducting the misdemeanour proceedings from the list of court interpreters, and where it is not possible, interpretation shall be provided by another person with the consent from the party concerned.

Two Instances of Misdemeanour Proceedings

Article 95

Appeals can be filed against the decisions of the misdemeanour court and against decisions passed by the commission referred to in Article 87, paragraph 2, item 1) of this Law in misdemeanour proceedings to the second instance misdemeanour court and/or objections can be made in compliance with this Law.

A decision handed down in a misdemeanour proceedings shall become final on the date of handing down of the judgement of the second instance misdemeanour court, unless specified otherwise by this Law.

No appeals shall be permitted against the decisions of the second instance misdemeanour courts.

Prohibition of Reversal for the Worse

Article 96

If an appeal has been made for the benefit of the defendant only, the judgement may not be amended to his/her detriment in the part thereof pertaining to the sanction imposed, nor may a less favourable judgement be handed down for the defendant in a repeat proceedings.

Compensation for Damage to an Unfairly Punished and Unjustifiably Detained Person

Article 97

The person who has been unfairly punished for a misdemeanour or unjustifiably detained shall be entitled to compensation for damage thus incurred to him/her, in addition to other rights accorded by the law.

At the request of the person referred to paragraph 1 of this Article, the Ministry in charge of judiciary shall conduct a procedure in order to arrive at an agreement on the existence, type and amount of compensation, and where such agreement is not achieved within three months from the submission of the request, the aggrieved party may file an action for compensation of damage to a court of relevant jurisdiction.

Legal Assistance

Article 98

The courts conducting misdemeanour proceedings shall be obliged to provide legal assistance in the tasks within their competence to one another and to other courts.

The internal affairs bodies, other administrative authorities and other authorities and organizations shall be obliged to provide legal assistance and carry out their orders in the affairs within their respective competencies to the courts conducting misdemeanour proceedings.

The courts shall be obliged to provide legal assistance to state and other authorities by delivering files, documents and other information, if the course of a misdemeanour proceedings is not disrupted thereby.

Mutatis Mutandis Application of the Criminal Procedure Code

Article 99

Provisions of the Criminal Procedure Code shall apply *mutatis mutandis* to the misdemeanour proceedings, unless laid down otherwise by this or another law.

Chapter IX

AUTHORITIES COMPETENT TO CONDUCT PROCEEDINGS

Jurisdiction

Article 100

The misdemeanour proceedings in the first instance shall be conducted by the misdemeanour courts.

Ceased to be valid (see Article 246 of the Public Procurement Law - 91/2019-3)

Provisions of this Law shall apply mutatis mutandis in the misdemeanour proceedings referred to in paragraph 2 of this Article, unless prescribed otherwise by the law regulating public procurements.

The misdemeanour proceedings instituted upon appeals against the decisions of misdemeanour courts and the Commission referred to in paragraph 2 of this Article shall be conducted by the second instance misdemeanour court.

The second instance misdemeanour court shall additionally decide on the conflict and transfer of territorial jurisdiction of courts and perform other tasks specified by the law.

The second instance misdemeanour shall also monitor the operation of courts, acquire from the courts information and reports required for monitoring of the misdemeanour practice, application of laws and other regulations, monitoring and studying of social relations and phenomena and information on other issues of interest for discharging their function.

Publicity of Operation

Article 101

Publicity of court operation shall be ensured by: public hearings, publication of decisions, providing notices to interested persons on the course of a misdemeanour proceedings, acquainting the general public on its operations through mass media.

For the purpose of keeping secret, protection of morals, interest of the minors or protection of other special interests of a community, publicity of a court operation can be excluded in all or in certain phases only of a misdemeanour proceedings.

Composition of the Court

Article 102

The first instance misdemeanour proceedings shall be adjudicated and decided upon by a judge sitting alone.

The second instance misdemeanour court shall adjudicate and decide in a panel comprising of three judges.

General Territorial Jurisdiction

Article 103

The courts in the territory of which the misdemeanour have been committed or attempted shall have the jurisdiction to conduct the first instance misdemeanour proceedings.

The court having territorial jurisdiction to conduct the misdemeanour proceedings against legal persons shall additionally have jurisdiction to conduct misdemeanour proceedings against responsible persons with the legal persons.

Where a misdemeanour is committed on board of a domestic ship or a domestic aircraft, the court in the territory of which the domestic port or airport in which the voyage/flight taken by the misdemeanour offender has ended is located shall have the jurisdiction to conduct the first instance misdemeanour proceedings, and where the misdemeanour offender is a crew member, the court in the territory of which the home port of the ship, i.e. the home base of the aircraft is located shall have the jurisdiction.

Where a misdemeanour is committed or attempted in a territory of a number of misdemeanour courts, the court that has been the first to institute the proceedings shall have the jurisdiction over it, and if the proceedings has not yet been instituted, the court to which the motion to institute the misdemeanour proceedings is filed earlier.

Subsidiary Territorial Jurisdiction

Article 104

If the place of committing a misdemeanour is not known, the court in the territory of which the defendant has his/her domicile or place of stay, i.e. the seat of the indicted legal entity is located shall have the territorial jurisdiction, where the validity of regulation laying down the misdemeanour additionally extends over the territory in which his/her domicile or place of stay, i.e. the seat of the indicted legal person is located.

Where neither the place of committing the misdemeanour, nor the domicile or place of stay of the defendant are known, the court in the territory of which the defendant is found, i.e. caught or turns in voluntarily shall have the jurisdiction.

Cumulation of Territorial Jurisdiction

Article 105

If the same person is indicted of a number of misdemeanours and thus two or more courts have the jurisdiction to conduct the misdemeanour proceedings, the court that has instituted the proceedings at the motion of the authorized authority shall have the jurisdiction, and where the proceedings has not yet been instituted, the court to which the motion to institute the misdemeanour proceedings if filed first shall have the jurisdiction therein.

Consolidation and Severance of a Misdemeanour Proceedings

Consolidation

Article 106

The court may, at the proposal of the parties or *ex officio*, due to expediency or other reasons, conduct a consolidated proceedings in the following cases:

1) if the same person is indicted for a number of misdemeanours;

2) if a number of persons is indicted for a single misdemeanour;

3) against accomplices;

4) if the aggrieved party has at the same time committed a misdemeanour against the defendant;

5) if a number of persons is indicted for a number of misdemeanours which are mutually related.

No appeal shall be permitted against the resolution which imposes consolidation of proceedings or whereby the motion for consolidation is dismissed.

Severance

Article 107

The court may, at the proposal of the parties or *ex officio*, due to expediency or some other important reasons, decide to sever the misdemeanour proceedings for individual misdemeanours or against individual defendants and to complete them separately.

No appeal shall be permitted against the resolution imposing severance of a misdemeanour proceedings or dismissal of a motion for severance of a proceedings.

Proceedings against a Legal Person and Responsible Person

Article 108

A single misdemeanour proceedings shall be conducted against a legal person and the responsible person with the legal person, unless where there are some legal reasons to conduct the proceedings against one of them.

Where the proceedings cannot be instituted against the responsible person with the legal person, the proceedings shall be instituted and conducted against the legal person.

Where the legal person has ceased to exist or where there are other legal obstacles to conduct the proceedings, the proceedings shall be instituted and conducted against the responsible person with the legal person.

Where the legal person has ceased to exist prior to the conclusion of the misdemeanour proceedings, the proceedings shall be continued against the legal successor.

Transfer of Territorial Jurisdiction

Article 109

Where the court of relevant jurisdiction, due to the legal or actual reasons, is prevented from acting in a certain case, it shall be obliged to notify the second instance misdemeanour court thereof, which shall designate another court having the *ratione materiae* jurisdiction.

No appeal shall be permitted against the resolution referred to in paragraph 1 of this Article.

Acting in Case of Lack of Jurisdiction

Article 110

The court shall be obliged to *ex officio* ensure that resolving of cases is within the jurisdiction of that court and that it has *ratione materiae* jurisdiction and territorial jurisdiction and to, as soon as it notices that it does not have jurisdiction, announce itself as not having jurisdiction by means of a resolution and to without delay deliver the case to the court of relevant jurisdiction or to another competent authority.

Where the court to which a case has been delivered as to the court of relevant jurisdiction is of the opinion that that the court that delivered the case to it has the jurisdiction, it shall institute proceedings to resolve the conflict of jurisdiction.

No appeal shall be permitted against the resolution referred to in paragraph 1 of this Article.

Resolving the Conflict of Jurisdiction

Article 111

The second instance misdemeanour courts shall resolve conflicts of jurisdiction between courts.

Until a conflict of jurisdiction between courts is resolved, each of them shall be obliged to take the actions in the proceedings concerning which there is a threat from delay.

No appeal shall be permitted against the resolution referred to in paragraph 1 of this Article.

Chapter X

EXCLUSION

Grounds for Exclusion

Article 112

A judge participating in a misdemeanour proceedings shall be excluded:

1) if he/she has been aggrieved by the misdemeanour;

2) if the defendant, the defendant's defence counsel, the representative of the indicted legal person, the person that filed the motion to institute a misdemeanour proceedings, the aggrieved party or his/her legal representative and/or the attorney-in-fact is his/her spouse or a straight-line relation by blood irrespective of the degree of consanguinity, in the collateral line up to the fourth degree and in an in-law relationship up to the second degree;

3) if he/she is in a relationship of a guardian, ward, adoptive parent, adoptee, a foster parent or a foster child with the defendant, with the representative of the indicted legal person, defendant's defence counsel, the official that filed the motion to institute the misdemeanour proceedings in the name of the authorized authority or with the aggrieved party;

4) if he/she has, as the official, in the name of the authorized authority, filed a motion to institute the misdemeanour proceedings or has participated as a representative of the indicted legal person, as the defence counsel of the defendant, the legal representative or the attorney-in-fact of the aggrieved party, or has been heard as a witness or as an expert witness in the same case;

5) if he/she has participated in handing down of the first instance judgement in the same case;

6) if there are circumstances that raise doubts concerning his/her impartiality.

Duty of a Judge where there are Reasons for Exclusion

Article 113

A judge participating in a misdemeanour proceedings, as soon as he/she has learnt of the existence of any of the reasons for exclusion referred to in Article 112, paragraph 1, items 1) through 5) of this Law, shall be obliged to discontinue his/her work on such case that to notify the president of the court thereof, who shall designate another judge. In case of an exclusion of a court president, he/she shall designate his/her deputy among the judges of that court.

Where the president of a court is as the same time the only judge of such court or where due to some other reasons he/she cannot designate his/her deputy from the same court, he/she shall ask the president of the second instance misdemeanour court to delegate another judge.

Where the judge is of the opinion that there are circumstances raising doubt concerning his/her impartiality (Article 112, paragraph 1, item 6), he/she shall notify the president of the misdemeanour court thereof, and if it is a case referred to in paragraph 2 of this Article, the president of the second instance misdemeanour court, who shall decide on his/her exclusion.

Filing of an Application for Exclusion

Article 114

Exclusion of a judge due to the existence of any of the reasons for exclusion referred to in Article 112 of this Law can be requested by the indicted and the authorized person that filed the motion to institute the misdemeanour proceedings (hereinafter: the parties).

The parties may file a request for exclusion of a judge until handing down of the judgement, i.e. resolution.

A party may file the request for exclusion of the president and judges of the second instance misdemeanour court in an appeal against the first instance judgement.

A party may request exclusion of a specifically designated judge by his/her name who is acting in the case.

In the request, the party shall be obliged to specify the circumstances due to which he/she is of the opinion that any of the legal grounds for exclusion exists.

Acting in Case of a Submitted Request for Exclusion

Article 115

When a judge who participated in a misdemeanour proceedings learns that a request for his/her exclusion has been submitted, he/she shall be obliged to immediately discontinue his/her work on the case, and in a case of an exclusion referred to in Article 112, paragraph 1, item 6) of this Law, he/she may, until handing down of the resolution on exclusion, take only the actions concerning which there is a threat from delay.

Exclusion of other Participants in the Proceedings

Article 116

Provisions on exclusion of judges shall apply *mutatis mutandis* on the recording clerks, interpreters and expert witnesses.

Deciding on a Request for Exclusion

Article 117

The president of a court shall decide on a request for exclusion of a judge.

Where the exclusion of the court president is requested, the resolution on exclusion shall be handed down by the president of the second instance misdemeanour court.

Where the exclusion of the second instance misdemeanour court judge is requested, the resolution on exclusion shall be handed down by the president of same court.

Where the exclusion of the president of the second instance misdemeanour court is requested, the decision on exclusion shall be handed down the president of the Supreme Court of Cassation.

The judge conducting the misdemeanour proceedings shall decide on the exclusion of the record clerks, interpreters and expert witnesses.

Prior to handing down of a resolution on exclusion, statement shall be acquired from the person whose exclusion is requested, and, where necessary, other actions shall be taken as well.

No appeal shall be permitted against the resolution granting a request for exclusion, and the resolution dismissing or refusing a request for exclusion can be contested only by means of an appeal against the judgement.

Chapter XI

DEFENDANT

Defendant and his/her Rights

Article 118

A defendant shall be the person against which a misdemeanour proceedings is conducted.

A defendant shall be entitled to submit evidence, file motions and use legal means laid down by this Law.

A legal representative shall take actions for the defendant divested of the legal capacity.

A defendant shall have the right to defend himself/herself alone or with the professional assistance from a defence counsel.

Defence Counsel of a Defendant

Article 119

A defendant may hire an attorney at law for a defence counsel and he/she may be, in compliance with the law, substituted by a law clerk.

A defence counsel for a defendant may additionally be hired by his/her legal representative, spouse, straight-line relative by blood, an adoptive parent, adoptive child, brother, sister and a foster parent of the defendant, as well as by the person with whom the defendant lives in an extramarital household or in some other longer-term domestic relationship.

The defence counsel shall be authorized to take all the actions for the benefit of the defendant which the defendant may take.

The defendant shall be obliged to submit a written power of attorney to the court.

The defendant may give the power of attorney to the defence counsel orally on the record at the court as well.

The rights and duties of the defence counsel shall terminate when he/she terminates the power of attorney or when the defendant revokes the power of attorney.

Indicted Legal Person

Article 120

For an indicted legal person, its representative, who is authorized to take all the actions that the defendant may take, shall take part in the misdemeanour proceedings.

Representative of Indicted Legal Person

Article 121

A representative of an indicted legal person shall be the person authorized to represent or act as an agent for such legal person on the basis of a law or another act.

The representative of the indicted legal person referred to in paragraph 1 of this Article, except the legal representative, must have a written power of attorney of the body which has designated them as a representative.

Only one person may be the representative of the indicted legal person.

Representative of Indicted Foreign Legal Person

Article 122

A representative of an indicted foreign legal person shall be the person managing the branch office or another business unit of such legal person in the Republic of Serbia, where no other person is designated as representative of the legal person.

Persons who may not be Representatives of Legal Persons

Article 123

A representative of a legal person may not be a person who is a witness in the same matter.

A representative of the legal person may not be the responsible person against whom the misdemeanour proceedings is conducted for the same misdemeanour, except where such person is the only one authorized to represent the indicted legal person.

In the cases referred to in paragraphs 1 and 2 of this Article, the court shall be obliged to invite the legal person to designate another representative within a time limit of eight days.

Punishment for a Failure to Designate a Representative

Article 124

If the indicted legal person fails to designate its representative at the invitation of the court or fails to designate another representative within the time limit referred to in Article 123, paragraph 3 of this Law, it can be punished by a fine of RSD 10,000 to RSD 30,000. Where the legal person fails to designate its representative even following the imposition of such fine, it shall be punished for each further failure to respond to such invitation with a fine of RSD 50,000 to RSD 100,000.

An appeal against the resolution referred to in paragraph 1 of this Article shall not have a suspensive effect on the enforcement of the resolution.

Right to a Defence Counsel

Article 125

The legal person and the responsible person with such legal person which are having the status of defendants in the same matter may each have their own defence counsel or may have a joint defence counsel.

The person who, in the same misdemeanour proceedings, has had the capacity of the representative of the legal person cannot be the defence counsel of a legal person or of the responsible person with such legal person.

Chapter XII

THE AGGRIEVED PARTY

Article 126

The aggrieved party, within the meaning of this Law, shall be the person whose personal or property right has been injured or threatened by the misdemeanour.

The aggrieved party who has turned sixteen may file the motion to institute a misdemeanour proceedings on his/her own.

The aggrieved party, on his/her own or through his/her legal representative or attorney-in-fact, shall have the right to:

1) file and represent a motion to institute a misdemeanour proceedings;

2) submit evidence, file motions and bring forward the property claims for compensation for damage or restitution of objects;

3) file appeals against judgements, i.e. resolutions handed down in relation to his/her motion to institute a misdemeanour proceedings;

4) submit evidence based on which the court may determine that the defendant must not access the aggrieved, objects or place of committing the misdemeanour during the course of the misdemeanour proceedings.

The procedural measure of the restraint order referred to in paragraph 3, item 4) of this Article may last as long as the reasons for its imposition exist and until the final conclusion of the proceedings at the maximum.

An appeal against the resolution imposing a restraint order shall be filed within three days from the date of delivery thereof and shall not have suspensive effect on the enforcement of the resolution.

Chapter XIII

PUBLIC PROSECUTOR AND OTHER AUTHORITIES AUTHORIZED TO FILE MOTIONS TO INITIATE MISDEMEANOUR PROCEEDINGS

Public Prosecutor as a Party to a Proceedings

Article 127

The Public Prosecutor shall be a party to the misdemeanour proceedings.

The Public Prosecutor shall:

1) take measures with a view to uncovering, finding and acquiring the required evidence for prosecution of misdemeanour offenders and successful conducting of misdemeanour proceedings before the court;

2) file motions to institute misdemeanour proceedings, appeals or extraordinary legal remedies against court decisions;

3) take other actions which he/she is authorized to take by this Law and by separate regulations.

The Public Prosecutor shall have *ratione materiae* jurisdiction to act in misdemeanour proceedings where he/she has filed a motion to institute a misdemeanour proceedings.

Where the Public Prosecutor has filed a motion to institute a misdemeanour proceedings first, the proceedings shall be conducted at his/her request, and it shall proceed at the request of the aggrieved party or another authority authorized to file motions to institute proceedings, if the Public Prosecutor desists from his/her motion.

If he/she desists from the motion to institute a misdemeanour proceedings, the Public Prosecutor shall be obliged to, within eight days from the date of such desisting from the motion, notify the aggrieved party or another person authorized to institute the proceedings, so that they can resume the proceedings.

Where the aggrieved party or another authority authorized to institute the misdemeanour proceedings has already filed the motion to institute the proceedings, the proceedings shall be resumed on such motion.

Other Authorities Authorized to File Motions

Article 128

Where another authority is authorized to file motions to institute misdemeanour proceedings, it shall have all the rights that the Public Prosecutor has as a party to the proceedings, except those which are vested in the Public Prosecutor, as a public authority.

The competent authority referred to in paragraph 1 of this Article shall notify the aggrieved party in writing of whether the motion to institute the misdemeanour proceedings has been filed.

Where the competent authority referred to in paragraph 1 of this Article files a motion to institute a misdemeanour proceedings for a misdemeanour for which a prison sentence is prescribed, it shall be obliged to notify the competent Public Prosecutor thereof, who shall decide on whether to resume the prosecution.

The competent Public Prosecutor shall notify the competent authority referred to in paragraph 1 of this Article of the decision referred to in paragraph 3 of this Article in writing.

Chapter XIV

BRIEFS AND TRANSCRIPTS

Briefs

Article 129

The motion to institute a misdemeanour proceedings, motions, legal remedies and other declarations and statements (hereinafter: briefs) shall be filed in writing or given orally on the records.

Written briefs shall be handed over directly or sent by post.

Brief and urgent notices can be given by facsimile, telex, telephone, by electronic mail or in some other adequate manner on which an official record shall be made and filed in the case file.

The briefs referred to in paragraph 1 of this Article must be intelligible and include all that is required in order that they can be acted upon.

If a brief is unintelligible or does not include everything that is required in order that it can be acted upon, the judge conducting the misdemeanour proceedings shall order the person submitting the brief to, within a specified time limit, and within fifteen days at the latest, correct and/or supplement the brief and if he/she fails to do so, the brief shall be dismissed as inadequate.

Making a Transcript

Article 130

Transcript shall be made on each action taken during a misdemeanour proceedings concurrently with the action and, where this is not possible, immediately thereafter.

A transcript shall be kept by the recording clerk.

By way of exception from paragraph 2 of this Article, when an apartment or a person is searched or when an action is taken outside of the official premises of a misdemeanour court, and where a recording clerk is unavailable, the transcript can be kept by the person taking the action.

When transcript is kept by the recording clerk, the transcript shall be made in such a manner that person taking the action speaks loudly to the recording clerk what to record in the transcript.

The person who is being heard may be allowed to personally dictate the answers on the record. In case of an abuse, he/she may be deprived of such right.

The Contents of the Transcript

Article 131

The name of the court, place where the action is taken, date and hour when the action is initiated and completed, personal names of the persons present and the capacities in which they are present, as well as a designation of the misdemeanour case in which the action is taken shall be entered in the transcript.

A transcript should include important information on the course and contents of the action taken. Only the relevant contents of the statements and declarations made shall be entered in the transcript. Questions shall be entered in the transcript only if it is necessary to understand the answer.

Where necessary, question posed and answer provided shall be entered in the transcript literally. If objects or files are seized on the occasion of taking an action, this shall be indicated in the transcript, and objects seized shall be attached to the transcript or the place where they are located shall be specified therein.

The statement of the defendant as to whether he/she applies for presentation of other evidence shall be entered in the transcript.

On the occasion of taking actions such as the investigation, search of an apartment or a person, or identification of persons or objects, information of relevance in view of the nature of such action or for determining identity of certain objects (description of measures and sizes of objects or traces, putting tags on objects, etc.) shall be entered in the transcript as well, and if sketches, drawings, plans, photographs, film records and the similar has been made, it shall be specified in the transcript and attached to the transcript.

Accuracy of the Transcript

Article 132

A transcript must be kept accurately. It must not include any deletions, additions or alterations. Any spots crossed out must remain legible.

Any reversals, corrections and additions shall be entered at the end of the transcript and must be certified by the persons signing the transcript.

Reading of the Transcript

Article 133

A person heard, persons who are mandatorily present during the actions in a misdemeanour proceedings, as well as the defendant, the defence counsel and the aggrieved party, where they are present, shall be entitled to read the transcript or to demand that it be read to them. The judge taking the action shall be obliged to advise them thereof, and it shall be indicated in the transcript whether the advice has been made and whether the transcript has been read.

The transcript shall always be read where the recording clerk has been unavailable and that shall be indicated in the transcript.

Signing of the Transcript

Article 134

The person heard shall sign the transcript. Where the transcript comprises of a number of pages, the person heard shall sign each page thereof.

Where an interpreter or a translator was present, they shall put their signatures at the end of the transcript, and on the occasion of a search, the person being searched or whose apartment is being searched as well, as well as the witnesses who were present on the occasion of the search.

Where the transcript is not made by a recording clerk, the transcript shall be signed by the persons present during the action. Where there are no such persons or where they are not capable of understanding the contents of the transcript, the transcript shall be signed by two witnesses.

An illiterate person shall affix the fingerprint of the index finger of the right hand instead of the signature and the recording clerk shall sign his/her name and surname beneath the fingerprint. If, due to an impossibility to affix the fingerprint of the index finger of the right hand a fingerprint of some other finger or of a finger of the left hand is affixed, the finger and the hand from which the fingerprint has been taken shall be indicated in the transcript.

If the person heard has neither hand, he/she shall read the transcript and if he/she is illiterate, the transcript shall be read to him/her and that shall be recorded in the transcript.

If the person heard refuses to sign the transcript or to affix the fingerprint, that shall be recorded in the transcript and the reason for such rejection shall be indicated.

If an action could not be performed without interruptions, the date and time of the occurrence of such interruption shall be indicated in the transcript, as well as the date and time when the action is resumed.

Where there were objections to the contents of the transcript, such objections shall be stated in the transcript as well.

The transcript shall finally be signed by the judge and the recording clerk.

Transcript on Conferring and Voting

Article 135

A separate transcript shall be drawn up on conferring and voting before the second instance misdemeanour court.

The transcript on conferring and voting shall include the course of voting and the decision handed down.

The transcript shall be signed by all the members of the panel and the recording clerk.

Separate opinions shall be attached to the transcript on conferring and voting where these have not been included in the transcript itself.

The transcript on conferring and voting shall be enclosed in a separate cover. Such transcript can only be inspected by a higher court when deciding on the legal remedy and in such case, it shall be obliged to enclose the transcript again in a separate cover and to indicate on the cover that the transcript has been inspected.

Chapter XV
TIME LIMITS AND REINSTATEMENT TO THE PRIOR POSITION

Time Limits

Article 136

The time limits laid down by this Law may not be extended, except where it is explicitly permitted by the law.

Where a declaration is tied to a time limit, it shall be considered that it is made within the time limit if submitted to whoever is authorized to receive it prior to expiry of such time limit.

When a declaration is sent by mail as a registered mail or by telegraph, the date of the handing over to the post shall be considered to be the date when it is handed over to whoever it was addressed.

A defendant detained in a penitentiary institution or in a juvenile detention centre may hand over a declaration tied to a time limit and on the record or hand it over to the management of the institution. The date of drawing up of such record, i.e. when the declaration is handed over to the management of the institution shall be considered to be the date of its handing over to the authority authorized to receive it.

Where due to ignorance or an obvious error by the person submitting it, a brief tied to a time limit has been handed over or sent to the competent authority prior to the expiry of the time limit and it reaches the competent authority after the expiry of the time limit, it shall be considered to have been submitted in a timely manner.

Calculation of Time Limits

Article 137

Time limits shall be calculated by hours, days, months and years.

The time or date when a delivery or communication is made, i.e. when an event from which a time limit should be calculated falls shall not be calculated in the time limit, and instead the first following hour, i.e. day shall be taken as the beginning of the time limit. One day shall be calculated to include 24 hours and a month shall be calculated according to the calendar time.

The time limits specified in months and/or years shall expire with the expiration of the day of the last month, i.e. year which, according to its number, corresponds to the date when the time limit begins. Where there is no such day in the last month, the time limit shall expiry on the last day of such month.

Where the last day of a time limit falls on a public holiday or on a Sunday or on some other day that is a non-working day for the court, the time limit shall expire with the expiry of the following working day.

Time Limit for Reinstatement to Prior Position

Article 138

A reinstatement to prior position shall be permitted by the court conducting the misdemeanour proceedings by means of a resolution, to a defendant who, due to some duly justified reasons has omitted the time limit for filing an appeal against a decision, for the purpose of filing an appeal, providing that within eight days from the date of termination of the cause of such omission of the time limit, he/she files an appeal for reinstatement to prior position and if he/she files the appeal concurrently with the application.

An application for reinstatement to prior position may not be made after the expiry of one month from the date of the omitted time limit.

The application for reinstatement to prior position shall be submitted to the misdemeanour court which handed down the first instance decision.

The application for reinstatement to prior position shall not stay the enforcement of the decision, but the court to which the application is submitted may, depending on the circumstances, decide to suspend the enforcement until the decision on the application is handed down.

Deciding on Reinstatement to a Former Position

Article 139

The misdemeanour court of the first instance shall decide on reinstatement to a former position.

When the court permits reinstatement to a former position due to an omitted time limit for an appeal, it shall deliver the appeal with the case files for resolution to the misdemeanour court of the second instance.

No appeal shall be permitted against the resolution granting reinstatement to the former position.

The court referred to in paragraph 1 of this Article shall deliver the appeal against the resolution whereby no restitution to a former position is granted, enclosed with the appeal against the decision and other case files for resolution to the misdemeanour court of the second instance.

If the second instance misdemeanour court permits reinstatement to a former position due to an omitted time limit for appeal, it shall decide in the same judgement on the appeal filed against the first instance decision.

Chapter XVI

COSTS OF THE MISDEMEANOUR PROCEEDINGS

What the Costs Cover

Article 140

The costs of a misdemeanour proceedings shall be the expenses incurred in relation to a misdemeanour proceedings, from its institution to its completion.

The costs of a misdemeanour proceedings shall be:

1) the costs of witnesses and expert witnesses;

2) the costs of investigation;

3) the costs of transport of the defendant;

4) the expenses related to brining of the defendant;

5) the transportation and travel costs of the officials;

6) the necessary expenses of the aggrieved party as the person that filed the motion, i.e. of his/her legal representative and the remuneration and the necessary expenses of his/her attorney-in-fact;

7) the remuneration and the necessary expenses of the defence counsel;

8) the costs of translation and interpretation;

9) the lump sum;

10) the costs of enforcement.

Obligation to Pay the Costs

Article 141

The costs of a misdemeanour proceedings shall be borne by person pronounced responsible for the misdemeanour.

The costs of the proceedings for a misdemeanour for which the proceedings has been discontinued or the defendant has been acquitted shall be borne by the court.

By way of exception from paragraph 2 of this Article, where a misdemeanour proceedings is discontinued due to desisting of the aggrieved party from the motion filed or where the defendant is acquitted due to an unfounded request, the costs of the proceedings shall be borne by the aggrieved party.

By way of exception from paragraph 2 of this Article, the court shall not bear the costs of the misdemeanour proceedings where the proceedings is discontinued due to the criminal proceedings for a criminal offence that includes the characteristic of the misdemeanour in which the defendant is pronounced guilty.

The claim for compensation for remuneration and necessary expenses of the defence counsel shall be submitted within three months from the date of delivery of the final decision.

If the defendant is acquitted in the criminal proceedings due to which the misdemeanour proceedings has been discontinued, the time limit referred to in paragraph 5 of this Article shall run from the legal enforceability of the acquittal in criminal proceedings.

Decision on Costs

Article 142

It shall be indicated in the decision on costs who shall bear the costs of the misdemeanour proceedings, in what amount and within what time limit he/she shall be obliged to pay them.

Where information necessary to determine the amount of costs is lacking, the costs shall be decided upon when such information is obtained.

Where no decision on the costs of proceedings has been included in the judgement or resolution, it shall be decided upon subsequently, by means of a separate resolution against which appeals shall be permitted.

The time limit referred to in paragraph 1 of this Article may not be shorter than 15 or longer than 30 days from the date of legal enforceability of the decision.

Joint and Several Costs

Article 143

The person against whom a single misdemeanour proceedings for a number of misdemeanours shall not bear the costs of the misdemeanour for which the misdemeanour proceedings is discontinued or he/she has been acquitted, where it is possible to separate such costs from the total costs.

In the judgement whereby a number of defendants are pronounced responsible, the court shall determine the amounts of the portions of such costs to be borne by each of them individually, and where this is not possible, it shall decide that such costs shall be borne jointly and severally by all the defendants. Payment of lump sums shall be determined for each defendant separately.

Costs of Detecting the Offender

Article 144

Where a separate regulation lays down that the costs incurred in relation to detecting a misdemeanour shall be borne by the offender, the defendant shall be obliged to pay such costs at the motion of the person that filed it.

Reason for Release from Duty to Compensate for the Costs

Article 145

In the decision whereby the costs are decided upon, the court may release the defendant from the duty to compensate the costs of the misdemeanour proceedings in their entirety or in a part thereof, if the payment thereof would call in question the subsistence of the defendant or his/her legal dependants.

The Costs of Translation and Interpretation

Article 146

The costs of translation and interpretation incurred through application of constitutional and legal provisions regulating the official use of languages and scripts and/or interpretation for the deaf, blind and mute shall be borne by the court conducting the proceedings.

Subsequent Collection of Costs

Article 147

The costs of a misdemeanour proceedings referred to in Article 140, paragraph 2, items 1) and 2) of this Law shall be paid in advance from the means of the misdemeanour court conducting the misdemeanour proceedings and shall be collected subsequently from the persons obliged to compensate them pursuant to the provisions of this Law.

Mutatis mutandis Application of Regulations on Compensation for Costs in Misdemeanour Proceedings

Article 148

Regulations on compensation for costs to witnesses, expert witnesses and interpreters, as well as other costs in the criminal proceedings shall apply *mutatis mutandis* in the misdemeanour proceedings.

Chapter XVII

PROPERTY CLAIMS

Deliberation on a Property Claim

Article 149

The court shall decide on a property claim.

The property claim that has arisen due to committing of a misdemeanour shall be deliberated at the motion of the aggrieved party or another authorized person, as a rule, in a misdemeanour proceedings except where this is significantly delaying the proceedings.

The property claim may pertain to compensation for damage and restitution of objects.

Persons Authorized to File the Claims

Article 150

A motion for realisation of a property claim in a misdemeanour proceedings can be filed by a person authorized to realize such a claim in a civil proceedings, by handing down of the first instance judgement at the latest.

The person authorized to file a property claim shall be obliged to specify his/her claim by the grounds and amount thereof, as well as to submit evidence.

Deciding on a Claim

Article 151

Where evidence presented in a misdemeanour proceedings does not provide reliable grounds for granting the property claim in its entirety or in a part thereof, the court shall advise the aggrieved or another authorized party that the property claim, i.e. the surplus amount of such claim can be realized in a civil proceedings.

Where a motion to institute a misdemeanour proceedings is dismissed by means of a resolution or where the misdemeanour proceedings is discontinued, or where the defendant is acquitted, the aggrieved or another authorized person shall be advised to realize their property claim in a civil proceedings.

Where the damaged property is public property, the competent Public Attorney shall be notified of the decision referred to in paragraphs 1 and 2 of this Article.

The aggrieved or another authorized person which has filed the claim shall be entitled to file an appeal against the decision on the property claim.

Time Limit for Compensation for Damage

Article 152

If the court grants a property claim in its entirety or in a part thereof, it shall specify in the judgement the time limit within which the defendant shall be obliged to compensate the damage incurred and/or to return the object.

The time limit for compensation of damage and restitution of objects may not be longer than 15 days from the date of legal enforceability of the judgement.

Chapter XVIII

HANDING DOWN AND COMMUNICATION OF DECISIONS

Types of Decisions

Article 153

In misdemeanour proceedings, the court shall hand down decisions in the form of a judgement, a resolution and an order.

Communication of Decisions

Article 154

As a rule, the decisions shall be communicated immediately upon being handed down.

The decisions shall be communicated through oral pronouncing to the parties present, to the aggrieved party and to other persons having the right to appeal against such decision (hereinafter: the interested persons) and by delivering the certified transcript in case of their absence.

When a decision is pronounced orally, this shall be indicated in the transcript or in the file, and the person to whom the decision has been pronounced orally shall confirm it with his/her signature.

At the request of an interested person, a certified transcript of the decision that has been pronounced to him/her orally shall be issued.

The interested persons which are not requesting delivery of the transcripts of the decision shall be advised on the right to appeal and on the time limit for the appeal.

A written authenticated copy of the decision in the case referred to in paragraph 4 of this Article shall be made within eight days from the date of oral pronouncing at the latest, and the written authenticated copy of the judgement shall be made immediately where the enforcement of the judgement prior to the legal enforceability thereof is imposed.

Deciding by the Second Instance Court

Article 154a

The panel of the second instance court shall sit in judgement if the first instance decision has already been revoked once in the same case.

The panel of the second instance court shall decide whether to hold the hearing.

Where the panel decides to hold the hearing, the reporting judge shall be the president of the panel

The defendant may, within eight days from the judgement delivery date, file an appeal against the judgement of the second instance court referred to in paragraph 1 of this Article, if, under the appeal of the person that filed the motion, the acquittal or the resolution to discontinue the proceedings has been reversed to a conviction.

Another panel of such court shall decide on the appeal of the defendant against the decision of the panel of the second instance court.

Course of Panel Sitting

Article 155

The decisions of the second instance misdemeanour court shall be handed down by conferring and voting, following an oral exposition of the reporting judge on the state of affairs. The decision shall be handed down when the majority of the panel member vote for it.

The president of the panel shall manage conferring and voting and he/she shall vote the last. He/she shall be obliged to ensure that all the issues are examined thoroughly and completely.

If votes are divided among a number of different opinions in respect of certain issues, so that not a single one of them has the majority, the issue shall be set apart and voting shall be repeated until the majority is achieved. Where the majority vote is thus not achieved, the decision shall be handed down by adding the votes that are the least favourable for the defendant to the votes that are less unfavourable than these, until the majority is achieved.

The panel members may not refuse to vote on the issues raised by president of the panel, but a member of the panel who has voted in favour of discontinuation of a misdemeanour proceedings and remained in the minority shall not be obliged to cast the vote on the punishment. If he/she refrains from voting, it shall be considered that he/she has agreed to the vote that is the most favourable for the defendant.

Conferring and voting shall be taking place in a non-public sitting.

In the chamber in which conferring and voting take place, only the panel members and the recording clerk may be present.

Chapter XIX

SERVICE OF WRITS AND EXAMINATION OF FILES

Service of Writs

Article 156

Writs shall be served through the post, another service authorized for delivery, the official of the court or through another authority and/or directly in the premises of the court.

Writs can also be served electronically, in compliance with separate regulations, where there are conditions for that.

Writs shall be served each day in the workplace or in business premises during working hours or in apartments from 7:00 a.m. until 10:00 p.m. or in the court when the person to whom a writ should be served is found there or when he/she is summoned by the court to serve him/her the writ.

Writs can also be served at some other time and in some other place, based on a special decision of the court that the deliverer shall be obliged to present at the request of the person to whom the writ is served.

A summons for an oral hearing or other summons can also be communicated orally by the court to the person who is before it, with advice on the consequences of the failure to appear before the court. Such an oral summons shall be recorded in the transcript which shall be signed by the person summoned, except where the summons has been recorded in the transcript on search, whereby it shall be considered that the summons has been duly served.

Mandatory Service in Person

Article 157

A summons for a defendant to be heard, i.e. to provide the written answer or to hear the witnesses, as well as all the decisions from the delivery of which the time limits for appeals run, shall be served in person, except where this Law prescribes otherwise.

Decisions, for which the time limit for appeal runs from the delivery date thereof, shall be served in the same manner to the aggrieved party.

Service at the Residential Address

Article 158

A writ for which this Law lays down delivery in person, shall be handed over directly to the person to which it is addressed, at the address at which he/she is registered or which he/she has provided to the competent authority on the occasion of uncovering of the misdemeanour.

Where the person to whom a writ must be served in person is not found in the place where the delivery is to be made, the deliverer shall hand over the writ to a member of his/her household who is of the legal age, who shall be obliged to receive the writ and it shall thus be considered that the writ has been duly served.

Where the person to whom the writ must be served in person or a member of his/her household who is of the legal age refuses to receive the writ, the deliverer shall make a note on the delivery note that the receipt has been refused, who has refused the receipt, as well as the date and time when the receipt has been refused, and the writ shall be left in the apartment or fasten on the recipient's door and it shall thus be considered that the writ has been duly served.

If the person to whom the writ must be served in person or a member of his/her household of legal age is not found in the apartment, the writ shall be handed over to the person of legal age found in the apartment if they agree to that and it shall thus be considered that the writ has been duly served.

Service at the Workplace

Article 159

Where the writ is served at the workplace of the person to whom the writ is to be served in person, and such person is not found there, the writ can be served by handing over the writ to the person authorized to receive mail or to any other person employed with the same employer at the same place, who shall be obliged to receive the writ and it shall thus be considered that the writ has been duly served.

If the person to whom the writ is to be served in person refuses to receive the writ or if that is done by the person referred to in paragraph 1 of this Article, the deliverer shall record the date, time and reason for the refusal to receive on the delivery note and the writ shall be left in the workplace and it shall thus be considered that the writ has been duly served.

Service to an Absent Person

Article 160

If no one is found at the address at which the writ is to be served, it shall be left in the mail box or a notice shall fastened on the door reading that the person to whom the writ is addresses should take it in the court within 15 days from the date of the attempted service.

Upon the expiry of the time limit referred to in paragraph 1 of this Article, the writ shall be put up on the notice board and on the website of the court, where there are technical conditions for that. It shall be considered that the writ has been served upon the expiry of the time limit of eight days from the date of putting up of the writ on the notice board and on the website of the court.

The notice referred to in paragraph 1 of this Article shall comprise: the name and surname of the person to whom service has been attempted, his/her capacity in the proceedings, date and time of the attempted service, address at which service has been attempted, an indication that the writ should be taken over in the court and the time limit for that, with a warning that in case of a failure to take it over the writ shall be put up on the notice board and on the website of the court, as well as that in such a case, upon the expiry of the time limit of eight days, it shall be considered that the writ has been duly served.

Where it is determined that the person to whom the writ is to be delivered is absent or that he/she is temporarily residing at another address and that due to that the writ cannot be served to him/her in a timely manner, the writ shall be returned to the court with an indication of the whereabouts of the absent person and of the time and place where the writ can be served to him/her.

If, in the repeated attempt, the writ cannot be served at the time and in the place specified in the manner referred to in paragraph 4 of this Article, the writ shall be put up on the notice board and on the website of the court, where there are technical conditions for that. It shall be considered that the writ has been duly served upon the expiry of the time limit of eight days from the date of putting up of the writ on the notice board and on the website of the court.

Where a writ cannot be served at the address referred to in Article 158, paragraph 1 of this Law, the court shall check the address and, if the writ cannot be served at the address at which the person is registered in a repeated attempt, it shall be proceeded in the manner prescribed in paragraph 2 of this Article.

Service to the Defence Counsel, Representative and Attorney-in-fact

Article 161

If the defendant has a defence counsel, all the decisions from the delivery of which the time limit for appeal runs shall be served to the defence counsel only, and where there are more of them, to one of them only and it shall thus be considered that the service of writ to the defendant has been completed.

If the defendant has a legal representative or an attorney-in-fact, the decisions referred to in paragraph 1 of this Article shall be delivered to him/her, and where there are more than one, to one of them only.

Certificate of Service

Article 162

A certificate of service completed (the delivery note or proof of delivery) shall be signed by the recipient and by the deliverer.

The recipient shall personally indicate the date of receipt on the delivery note. Day and month of the receipt shall be written in letters and numerically.

Where the recipient is illiterate or is not able to sign, the deliverer shall sign for the recipient, indicate the date of receipt and add a note on the reason why he/she signed for him/her.

Where the recipient refuses to sign the delivery note or proof of delivery, the deliverer shall record that on the delivery note and indicate the date of handing over and thus the service shall be completed.

Information in the certificate of a completed service of writ must be filled out legibly.

Service by electronic means shall be considered to be performed providing that it is possible to furnish feedback by such delivery method that the person has received the writ.

The certificate of receipt of a writ delivered by electronic means shall be the printed electronic record of the date and time when the device for electronic data transmission recorded that the writ has been delivered to the recipient, the name of the sender and of the recipient and the title of the writ.

Service of Writs to Military Personnel, Police Officers and Other Persons

Article 163

Writs to military personnel, police officers, guards in penitentiary institutions and to the employees in land, river, marine and air traffic can additionally be served through their respective commands and/or through the immediate superior officers or managers, and, where necessary, other writs can also be served to them in the same manner.

Service to persons deprived of liberty shall be carried out through the management of the institution in which they are placed.

Service to the persons enjoying the right to immunity in the Republic of Serbia, unless where the international treaties stipulate otherwise, shall be carried out through the body in charge of the international affairs.

Service of Writs to Public Authorities, Legal Persons and Entrepreneurs

Article 164

Decisions and other writs shall be served to a public authority by handing over to the clerk's office. Where decisions from the delivery of which a time limit runs are delivered, the date of service shall be considered to be the date of handing over thereof to the clerk's office.

Service to legal persons and entrepreneurs shall be carried out by handing over the writ to the person authorized to receive the writs, and where this is not possible, the writ shall be handed over to any employee found in the business premises of the recipient and it shall thus be considered that the service has been duly completed.

Where the person referred to in paragraph 2 of this Article refuses to receive the writ, the deliverer shall record on the delivery note that the receipt has been refused, who has refused the receipt as well as the date and time of the refusal of receipt, and the writ shall be left in the business premises of the recipient and it shall thus be considered that the service has been duly completed.

Where the service to an entrepreneur within the meaning of paragraph 2 of this Article cannot be carried out, service shall be carried out at the address of his/her apartment if known, in the manner prescribed in Article 158 of this Law.

If the entrepreneur is absent, and the service cannot be carried out at the address of his/her apartment, service shall be carried out in the manner prescribed in Article 160 of this Law.

Change of Address and Putting up of Writs on the Notice Board

Article 165

When a defendant or his/her legal representative and the aggrieved party, upon having learnt of the proceedings, change their residence or apartment address, they shall be obliged to notify the court before which the proceedings is conducted thereof, immediately upon the completed change.

In case of their failure to do so, the court shall specify that all further services in the proceedings for such party shall be carried out by putting the writ on the notice board and on the website of the court, except in cases of a service of judgement whereby a prison sentence is imposed.

Service shall additionally be carried out in the manner referred to in paragraph 2 of this Article in the case where the court has handed down the resolution to discontinue the proceedings due to the statute of limitation, which has entered into force due to the impossibility to serve the decision referred to in Article 246, paragraph 1 of this Law.

It shall be considered that the service has been completed upon the expiry of eight days from putting up of the writ on the notice board and on the website of the court.

Where the defence counsel or the attorney-in-fact of the defendant as the moving party changes their address during the course of the proceedings and where they fail to notify the court thereof, service shall be carried out as if the defendant had no defence counsel, i.e. as if the defendant had no attorney-in-fact.

Examination and Making of Written Copies of the Files

Article 166

The moving party to a motion to institute a misdemeanour proceedings, the defendant, defendant's defence counsel, representative and/or attorney-in-fact of the indicted legal person, the aggrieved party and his/her legal representative and/or attorney-in-fact shall be entitled to examine and make written copies of the case files.

Other persons with a legal interest may additionally be allowed to examine and make written copies of the files, in compliance with the law.

When a misdemeanour proceedings is in progress, permissions for examining and making written copies of the files shall be granted by the judge conducting the misdemeanour proceedings, and when the proceedings is completed, permissions for examining and making written copies of the files shall be granted by the president of the court or by an official designated by him/her.

Except to the defendant, his/her defence counsel and representative of the indicted legal person, examining and making written copies of the files can be denied only where that would obstruct proper conducting of the misdemeanour proceedings or if it is conducted in the chambers.

After completion of the evidentiary proceedings, i.e. upon a completed oral hearing, the person having justified interest cannot be denied examining or making written copies of the files.

Appeal shall be permitted against the resolution to deny examining and making written copies of the case files, which shall not have suspensive effect on the enforcement of the resolution.

Chapter XX

INSTITUTING OF A MISDEMEANOUR PROCEEDINGS

Article 167

A misdemeanour proceedings shall be instituted by means of a court resolution on the basis of:

1) a motion to institute a misdemeanour proceedings;

2) an issued misdemeanour notice in relation to which the motion for court decision-making has been filed.

1. The Misdemeanour Notice

Conditions for Issuing of a Misdemeanour Notice

Article 168

A misdemeanour notice shall be issued when only a fine in a fixed amount is laid down among the misdemeanour sanctions for a misdemeanour by the law or another regulation.

No motion to institute a misdemeanour proceedings can be filed for the misdemeanours referred to in paragraph 1 of this Article.

A separate misdemeanour notice shall be issued for each respective misdemeanour offender.

A misdemeanour notice cannot be issued to a minor.

Where there are no conditions for issuing of a misdemeanour notice vis-à-vis a legal or a responsible person under this Law, a motion to institute the misdemeanour proceedings shall be filed against both these persons.

Method of Issuing of a Misdemeanour Notice

Article 169

The authorized authority, i.e. the authorized person shall issue a misdemeanour notice if the misdemeanour within his/her competence has been detected in one of the following manners:

1) by direct observation of a police officer or an authorized official on the occasion of control, supervision and examination, as well as through the inspection of the official records of the competent authority;

2) by inspection of information obtained with the aid of devices for supervision or measuring;

3) on the occasion of inspection or some other examination of documentation, premises and goods or in some other legally prescribed manner.

Contents of a Misdemeanour Notice

Article 170

A misdemeanour notice shall be issued in writing and it shall comprise:

1) the title: a misdemeanour notice;

2) the name of the authorized authority that issued it;

3) identification number of the misdemeanour notice specified by the authorized authority;

4) the personal name and the capacity of the official who has issued it;

5) date of issuing and date of services;

6) personal name of the natural person who is the misdemeanour offender, his/her address of domicile, i.e. place of stay, the unique registration number, information on employment, for foreigners – passport number, i.e. identity card number, and for the responsible person with a legal person the function performed by him/her in such legal person, and for the entrepreneur the name and seat of the business;

7) name and seat of the legal person against which the misdemeanour notice is issued, as well as its tax identification number and registration number;

8) factual description of the act from which the legal characteristic of the misdemeanour arises, as well as the time and place of committing the misdemeanour;

9) legal qualification of the misdemeanour;

10) fine imposed;

11) instruction on the payment method for the fine with the relevant account in which the payment should be made;

12) signature of the official and seal of the authorized authority;

13) place for signature, i.e. signature and seal of the person against which the misdemeanour notice is issued;

14) advice and warnings to the person against which the misdemeanour notice is issued;

15) whether another misdemeanour notice is issued for the same misdemeanour to another person;

16) place for notes.

If the misdemeanour is committed by a motor vehicle in traffic, the misdemeanour notice shall additionally comprise:

1) the registration number of the vehicle and the vehicle license number;

2) the driver's licence number of the driver, if he/she is known.

The misdemeanour notice can be issued in the electronic form as well.

Unless specified otherwise by this Law, the law regulating electronic document shall apply to the manufacturing, form, copying, certification, service and keeping of the misdemeanour notice issued in the electronic form.

Advice and Warnings in a Misdemeanour Notice

Article 171

A misdemeanour notice shall include the following advice and warnings:

1) that the person against which the misdemeanour notice is issued, if he/she accepts the responsibility and pays within eight days from the date of receipt of the misdemeanour notice one half of the fine imposed in compliance with Article 173, paragraph 1 of this Law, shall be released from payment of the other half of the fine imposed;

2) that the person against which the misdemeanour notice is issued may accept responsibility for the misdemeanour even following the expiry of the time limit of eight days from the receipt of the misdemeanour notice, if, prior to the enforcement procedure, he/she voluntarily pays the total amount of fine imposed in compliance with Article 173, paragraph 4 of this Law;

3) that the person against which the misdemeanour notice is issued and which does not accept responsibility for the misdemeanour is entitled to, within eight days from the receipt of the misdemeanour notice, file a motion for court decision making by submitting the misdemeanour notice in person or through post to the misdemeanour court of relevant jurisdiction with an indication of the court to which the motion is filed in compliance with Article 174, paragraph 1 of this Law;

4) that the person against which the misdemeanour notice is issued will be obliged to, in addition to paying the fine stipulated in the misdemeanour notice, compensate the court expenses in case that he/she requests court decision making and that the court determines that he/she is responsible for the misdemeanour in compliance with Article 174, paragraph 7 of this Law;

5) that the misdemeanour notice shall become final and enforceable upon the expiry of the time limit of eight days from the date of receipt thereof if the person against which the misdemeanour notice is issued does not pay the fine or does not request the court decision making on the misdemeanour notice issued within such time limit in compliance with Article 173, paragraph 2 of this Law;

6) that the person against which the misdemeanour notice is issued, in case of an enforcement of the fine imposed, be obliged to compensate the costs of such enforcement specified in the resolution on enforced collection in compliance with Article 318, paragraph 6 of this Law;

7) that the uncollected fine shall be substituted for the natural person, entrepreneur and the responsible person with the legal person against which the misdemeanour notice is issued with the prison sentence or community service in compliance with Article 41 of this Law.

Provisions of paragraph 1, items 1) through 7) of this Article shall be constituent parts of a misdemeanour notice, as advice and warning to the person against which the misdemeanour notice is issued, within the meaning of Article 170, paragraph 1, item 14) of this Law.

The minister in charge of judiciary shall define the form of the misdemeanour notice by means of a separate regulation.

Service of a Misdemeanour Notice

Article 172

A misdemeanour notice shall comprise of the original and two copies. The original copy shall be handed over to the person against which the misdemeanour notice is issued and the copies thereof shall be kept by the authority issuing the misdemeanour notice.

The misdemeanour notice shall be handed over to the person present who is considered to have committed the misdemeanour at the moment when the misdemeanour was detected. The person against whom the misdemeanour notice is issued shall confirm the receipt thereof by means of his/her signature in the relevant place in the notice.

A printed copy of the misdemeanour notice issued in electronic form may also be handed over to the person referred to in paragraph 2 of this Article.

At the request of the court, of the person to which the notice is issues or of his/her representative, the issuer of the notice shall be obliged to issue a certified copy of the misdemeanour notice.

If the person which is considered to have committed the misdemeanour is absent and where it is required due to the circumstances of the uncovering or the nature of the misdemeanour, the misdemeanour notice shall be served through mail or a delivery service of the authorized authority, in compliance with the provisions on service from law regulating the general administrative procedure.

If the person present against which the misdemeanour notice is issued refuses to receive the notice, the official shall warn him/her of the consequences of the refusal of receipt, entire a note in the notice on the refusal of receipt, the date and time of the refusal of receipt, upon which it shall be considered that the misdemeanour notice is delivered.

If the person against which the misdemeanour notice is issued states that he/she will request the court decision making on the notice, the authority that is issuing the notice may, in agreement with the court of relevant jurisdiction, determine the date of hearing on the occasion of issuing of the notice.

The authority shall be obliged to enter in the notice a record of the scheduled hearing and immediately, and to notify the court of relevant jurisdiction thereof immediately, and on the next working day at the latest.

It shall be considered that the defendant has abandoned the request for court decision making, within the meaning of Article 175 of this Law, if he/she does not appear in the hearing and fails to provide excuse for his/her absence.

Accepting Responsibility

Article 173

The person against which the misdemeanour notice is issued shall accept responsibility for the misdemeanour by paying one half of the fine imposed within eight days from the date of receipt of the misdemeanour notice, whereby he/she shall be released from payment of the other half of the fine imposed.

If the person against which the misdemeanour notice is issued does not pay the fine imposed within eight days from the date of receipt of the misdemeanour notice or does not file a motion for court decision making on the misdemeanour notice issued, it shall be considered that he/she has accepted the responsibility by omission, and the misdemeanour notice shall become final and enforceable.

The misdemeanour notice with the statement of finality and a note that the fine has not been paid shall be delivered by the authorized authority to the misdemeanour court of relevant jurisdiction so that the fine imposed can be entered in the register and that the enforcement procedure be carried out in compliance with this Law.

The person against which the misdemeanour notice is issued may accept the responsibility for the misdemeanour even following the expiry of the time limit of eight days from the receipt of the misdemeanour notice if, prior to the enforcement procedure, voluntarily pays the entire amount of the fine imposed.

Proceedings at the Request for Decision Making by the Court

Article 174

The person against which the misdemeanour notice is issued, if he/she does not accept the responsibility, may, within eight days from the date of receipt of the misdemeanour notice, deliver to the court of relevant jurisdiction in person or through mail, the signed misdemeanour notice, which shall, under these condition, be the request for court decision making on the misdemeanour notice (hereinafter: the request for court decision making).

By delivering the request for court decision making to the court of relevant jurisdiction, the person against which the misdemeanour notice is issued shall acquire the capacity of the defendant in the misdemeanour proceedings (hereinafter: the defendant).

If the defendant files a motion for court decision making to the court in person, the court shall be obliged to, immediately upon receipt of the motion, make an entry of the case, issue to the defendant a certificate of the receipt of the motion, examine the motion and hand down the resolution on instituting of the proceedings, and to hear the defendant or to schedule a hearing for him/her.

If the defendant delivers the motion for court decision making to the court by mail, he/she may enclose with the signed misdemeanour notice his/her written defence and deliver or propose evidence.

The court shall be obliged to, immediately upon having made an entry of the case, examine the motion for court decision making, hand down a resolution to institute the proceedings and summon the authority that has issued the misdemeanour notice to provide their answer within eight days and to deliver or propose evidence on the misdemeanour committed.

When the court hands down a resolution to institute the proceedings, it shall be considered that the decision on fine from the misdemeanour notice has not been imposed, except in the case referred to in Article 175 of this Law.

If the court determines that the defendant who requested the court decision making is responsible for the misdemeanour, it shall oblige him/her by means of a decision to pay the fine from the misdemeanour notice in full amount thereof, as well as to compensate the court expenses.

Defendant's Abandoning of the Motion for Court Decision Making

Article 175

The defendant who filed a motion for court decision making may abandon such motion at the first hearing at the latest.

It shall be considered that the defendant has abandoned the motion for court decision making if the duly summoned defendant does not appear in the first hearing and does not provide an excuse for his/her absence.

In the case referred to in paragraphs 1 and 2 of this Article, the court shall, by means of a resolution, determine that the misdemeanour notice is final and enforceable and it shall oblige the defendant to pay the misdemeanour costs incurred, and the fine imposed shall be entered in the register of fines.

The defendant shall be entitled to file an appeal against the resolution referred to in paragraph 3 of this Article within eight days. The appeal shall not have suspensive effect on the enforcement of resolution.

Examining the Motion for Court Decision Making

Article 176

The court shall dismiss, by means of a resolution, a belated or unsigned motion for court decision making.

The defendant shall be entitled to file an appeal against the resolution referred to in paragraph 1 of this Article within eight days. The appeal shall not have suspensive effect on the enforcement of resolution.

Upon the resolution whereby the court dismisses the motion for court decision making due to the reasons referred to in paragraph 1 of this Article, the misdemeanour notice shall become final and enforceable and the fine imposed shall be entered by the court in the register of misdemeanour sanctions.

If the misdemeanour notice which is submitted by the defendant as a motion for court decision making is illegible or does not include complete information required for the court to act, and in particular if the factual description of the action from which the legal characteristic of the misdemeanour results or the time and place of coming the misdemeanour is not specified therein, the court shall, prior to handing down on the resolution on instituting of the proceedings, request from the authority that has issued the misdemeanour notice to amend it within eight days.

If the authorized authority fails to act in compliance with the request of the court within the time limit left to it and does not remove the deficiencies, the court shall act as with an deficient motion to institute a misdemeanour proceedings referred to in Article 182 of this Law.

Instituting a Proceedings Based on an Issued Misdemeanour Notice

Article 177

Where the court does not dismiss the motion of the defendant for court decision making based on the misdemeanour notice issued, it shall hand down a resolution on instituting of a misdemeanour proceedings.

The misdemeanour court shall be obliged to notify the issuer of the misdemeanour notice that the misdemeanour proceedings has been initiated and that the same is requested to provide complete evidence available to them of the misdemeanour committed.

Persons without Domicile in the Territory of the Republic of Serbia

Article 178

A misdemeanour offender who is unable to prove his/her identity or has no domicile, or does not live at the address at which he/she is registered, or if he/she has domicile abroad or if he/she is going abroad to stay, to whom a misdemeanour notice is issued during the working hours of the banks or post offices, shall be ordered to pay the fine imposed immediately through a bank or a post.

Where the misdemeanour notice is issued to a misdemeanour offender out of the working hours of the banks or post offices, or where the misdemeanour is committed out of a populated place, the fine shall be collected from him/her on the spot and a certificate shall be issued thereof in which the postage charge amount shall be indicated which the misdemeanour offender shall be oblige to pay on the spot, and the authorized officer shall pay such amount on the first following working day through the post.

If the misdemeanour offender fails to pay the fine, it shall be considered that he/she has filed a motion for court decision making and shall immediately be brought before the court of relevant jurisdiction.

Where it is not possible to bring the misdemeanour offender before the court immediately, the representative of the authorized authority may take the measures referred to in Article 199, paragraph 1 of this Law.

2. Motion to Institute a Misdemeanour Proceedings

Article 179

The motion to institute a misdemeanour proceedings shall be filed by an authorized authority or by the aggrieved party (hereinafter: the moving party).

The authorized authorities referred to in paragraph 1 of this Article shall be the administration authorities, authorized inspectors, public prosecutor and other authorities and organizations which are exercising public powers, whose respective competencies include direct enforcement or supervision over the enforcement of regulations whereby the misdemeanours are provided for.

The Aggrieved Party as the Moving Party in Instituting a Misdemeanour Proceedings

Article 180

The aggrieved party shall be authorized to file a motion to institute a misdemeanour proceedings in all cases except where the law provides that only the authority referred to in Article 179, paragraph 2 of this Law shall be authorized to institute a misdemeanour proceedings.

The aggrieved party which has filed a motion to institute a misdemeanour proceedings shall be in a position of a party to the proceedings.

Where in the case referred to in paragraph 1 of this Article, the authorized authority fails to file a motion to institute a misdemeanour proceedings, the aggrieved may, in compliance with the provisions of this Law, file such a motion.

If the motion to institute the proceedings is filed by an authorized authority prior to the commencement of a proceedings at the motion of the aggrieved party, the motion to institute the proceedings of the authorized authority shall be complied with.

The misdemeanour notice of the aggrieved party filed to the competent authority under conditions from this Law shall be considered to be the motion to institute a misdemeanour proceedings where the authorized authority itself fails to initiate instituting of a misdemeanour proceeding.

In the case referred to in previous paragraph, the authorized authority shall be obliged to, within eight days from the date of the misdemeanour notice filed, notify the aggrieved party in writing of how it proceeded with the misdemeanour notice.

The aggrieved party may, during the course of the proceedings, take over prosecution from the public prosecutor who desists from the motion to institute the proceedings. The aggrieved party may remain by the former motion or alternatively amend it.

Contents of the Motion

Article 181

A motion to institute a misdemeanour proceedings shall be filed in writing and shall include:

1) the name and seat of the moving party, i.e. the personal name and address of the person filing the motion;

2) the name of the court to which the motion is filed;

3) basic information on the natural person, entrepreneur and responsible person against which the motion is filed: the personal name, unique personal identification number, profession, place and address of residence, place and address of employment and citizenship, i.e. name and seat of the legal person, as well as the tax identification number (hereinafter: TIN) and company registration number, and for the entrepreneur the name and seat of the business, and for the responsible person with the legal person the function that he/she performs in such legal person;

4) a factual description of the action from which the legal characteristic of the misdemeanour arises, the time and place of committing the misdemeanour and other circumstances required to specify the misdemeanour as accurately as possible;

5) the regulation on the misdemeanour that should be applied;

6) the motion on the evidence that should be produced, with indications of proper names and addresses of the witnesses, files that should be read and objects serving as evidence;

7) information on whether a criminal proceedings or a procedure for an economic offence has been instituted for an act that includes the characteristics of the misdemeanour that is the subject matter of the motion;

8) signature of the official, i.e. of the aggrieved party as the moving party and seal of the authorized authority that is filing the motion.

If available, the following information on the person against which the motion is filed shall be provided in the motion: place and date of birth, telephone number, e-mail address, telephone number at workplace, accounts numbers of the business accounts of the legal person and of the entrepreneur.

The motion referred to in paragraph 1 of this Article may additionally include a motion to impose the procedural measure of restraint order referred to in Article 126, paragraph 3, item 4) of this Law.

The motion to institute a misdemeanour proceedings which is filed by a natural person as the aggrieved party does not have to include the regulation on the misdemeanour that is to be applied or the unique personal identification number of the person against whom the motion is filed.

The motion to institute a misdemeanour proceedings which is filed by a natural person as the aggrieved party against a legal person and the responsible person with the legal person and an entrepreneur should include the name and seat of the legal person, the name, surname and function of the responsible person with such legal person, i.e. the name and surname, name and seat of the entrepreneur's business.

The motion to institute a misdemeanour proceedings which is filed by a natural person as the aggrieved party against the responsible person with a public authority, authority of the territorial autonomy and unit of the local self-government unit or other holders of public powers should include the personal name of the defendant, name and seat of the authority and the function, i.e. tasks that the person performs in the authority.

A natural person in the capacity of an aggrieved party may also file a motion to institute a misdemeanour proceedings to the misdemeanour court of relevant jurisdiction orally on the record.

The moving party shall be obliged to immediately upon learning thereof and until the final completion of the proceedings, notify the misdemeanour court that a criminal proceedings or a proceedings for an economic offence is conducted against the defendant in relation to the same event.

Deficient Motions

Article 182

A motion to institute a misdemeanour proceedings shall be filed in as many copies as there are defendants and on copy for the court. Where the motion does not include all pieces of information referred to in Article 181 of this Law, the moving party shall be asked to supplement it within a specified time limit.

The time limit referred to in paragraph 1 of this Article may not be longer than 15 days.

In case that the moving party does not remove the deficiencies within the specified time limit, it shall be considered that he/she has desisted from the motion and the motion shall be dismissed by means of a resolution.

Examining Conditions for Institution of Proceedings

Article 183

When the court of relevant jurisdiction receives the motion to institute a misdemeanour proceedings, it shall examine whether there are conditions for institution of a misdemeanour proceedings and decide on the further course of the proceedings.

When the motion includes information that a criminal proceedings or a proceedings for an economic offence has been instituted in relation to the same event, the misdemeanour court shall deliver the case files to the court of relevant jurisdiction for further actions and notify the moving party thereof.

The court shall also act in the manner referred to in paragraph 2 of this Article when it learns during the proceedings that a criminal proceedings or a proceedings for an economic offence is conducted in relation to the same event.

Dismissing of a Motion

Article 184

When the court determines that there are no conditions for institution of a misdemeanour proceedings, the motion for instituting of the proceedings shall be dismissed by means of a resolution.

Conditions to institute a misdemeanour proceedings shall be lacking:

1) when the act described in the motion is not a misdemeanour;

2) when the court has no *ratione materiae* jurisdiction to conduct the misdemeanour proceedings;

3) when there are grounds that exclude the responsibility of the defendant for the misdemeanour;

4) when the limitation period to institute a misdemeanour proceedings has elapsed;

5) when the motion has been filed by an authority that is not authorized, i.e. by a person that is not authorized for that;

6) when there are other legal reasons due to which the proceedings may not be instituted.

The resolution referred to in paragraph 1 of this Article shall be delivered to the moving party, and the aggrieved party shall be advised that the property claim can be realized in a civil proceedings.

The moving party shall be entitled to appeal against this resolution within eight days from the resolution delivery date.

Resolution on Institution of a Misdemeanour Proceedings

Article 185

If the court does not dismiss a motion for instituting of a misdemeanour proceedings, it shall hand down a resolution on instituting of a misdemeanour proceedings.

The resolution referred to in paragraph 1 of this Article shall include the designation of the person against which the misdemeanour proceedings is being instituted and the legal qualification of the misdemeanour.

Where the motion is filed against a number of persons or for a number of misdemeanours, all the persons and the legal qualification for all the misdemeanours must be indicated in the resolution. The resolution on instituting of a misdemeanour proceedings shall not be delivered to the moving party or to the defendant.

No appeal shall be permitted against the resolution on instituting of a misdemeanour proceedings.

The proceedings shall be conducted only in respect of the misdemeanour and against the defendant to which the decision to institute the misdemeanour proceedings is relating, except in the case referred to in Article 247, paragraph 4 of this Law.

The court shall not be bound by the legal qualification provided in the motion to institute the misdemeanour proceedings and/or in the decision to institute the misdemeanour proceedings.

Chapter XXI
MEASURES TO SECURE ATTENDANCE BY THE DEFENDANT

Types of Measures

Article 186

Measures that can be taken to secure attendance by the defendant and successful conducting of that the misdemeanour proceedings shall be: the summons, bringing in, bail and detention.

On the occasion of deciding which of the measures listed shall be applied, the court shall adhere to the conditions determined for application of individual measures, taking care that a stricter measure is not applied if the same purpose can be achieved by applying a less severe measure.

Summoning the Defendant

Article 187

Defendant's attendance on the occasion of carrying out the actions in a misdemeanour proceedings shall be secured by summoning him/her. Summons shall be addressed to the defendant by the court.

The defendant who should personally attend carrying out of the actions in the misdemeanour proceedings and/or personally participate in carrying out thereof shall be summoned by the writ of summons.

Summoning shall be carried out by serving a closed writ that shall include: the name of the court, personal name of the defendant, legal qualification of the misdemeanour that he/she is charged with, place where the defendant is to appear, date and time when the defendant is to report, an indication that he/she is being summoned in the capacity of a defendant, official seal and signature of the judge. It shall be indicated in the summons summoning the defendant whether he/she must attend in person for the purpose of hearing or may provide his/her defence in writing as well.

When the defendant is summoned for the first time, a copy of the motion to institute the misdemeanour proceedings shall be mandatorily delivered to him/her enclosed with the summons.

When the defendant is summoned for the first time, he/she shall be advised in the summons on the right to hire a defence counsel and that the defence counsel may attend his/her hearing.

When the defendant is summoned to personally appear because it is necessary to hear him/her, he/she shall be warned in the summons that in case of a failure to appear, he/she shall be brought in.

Where the defendant's presence is not necessary for determining the findings of facts, he/she shall be warned in the summons that in case of a failure to appear, the decision shall be handed down without his/her hearing.

Provisions of this Article shall apply *mutatis mutandis* on summoning of the representative of the indicted legal person.

Bringing in of the Defendant

Article 188

If a duly summoned defendant does not obey the summons and does not justify his/her absence or if the summons could not be properly served and where it is obvious from the circumstances that the defendant is avoiding to receive the summons, the court shall, by way of exception, order that he/she be brought in if the findings of facts cannot be completely and properly determined in some other manner.

Bringing in of the defendant can be ordered only where it was indicated in the summons that he/she would be forcibly brought in if he/she failed to obey the summons.

If a duly summoned representative of the indicted legal person does not obey the summons and does not justify his/her absence, it shall be ordered that he/she be brought in.

A Writ of Body Attachment

Article 189

A writ for body attachment shall be issued in writing. The writ should include: the name of the organisational unit of the police directorate to which is it addressed, personal data required to identify the defendant that is to be brought, the reason for ordering the body attachment, the official seal and signature of the judge ordering the body attachment.

The writ for body attachment shall be carried out by the authorized police officers.

The person entrusted with carrying out of the writ shall hand over the writ to the defendant and/or to the representative of the indicted legal person and summon him/her to come with him/her. If the summoned person refuses to comply, he/she shall be brought forcibly.

No writ of body attachment shall be issued against a police officer, a professional military officer or against a member of the guards in a penitentiary institution in which the punishment is served and their respective commands, i.e. institutions shall be asked to escort them.

The costs of bringing shall be borne by the person brought.

Issuing of a General Writ of Body Attachment

Article 189a

The court may order that a general writ of body attachment be issued if the defendant against which a misdemeanour proceedings is instituted is on the run or where there are other circumstances that are indicative of his/her obvious avoiding to be brought under the issued writ of body attachment of the court which has not been carried out due to the existence of these circumstances.

The general writ of body attachment shall be delivered by the court to the police authorities for the purpose of putting out a pursuit.

A pursuit shall be put out by the police authority competent according to the place of the court before which the misdemeanour proceedings is conducted.

Where the person found in accordance with the issued general writ of body attachment cannot be immediately brought to the court, an authorized police officer may, in compliance with the provisions of Article 190, paragraph 3 of this Law, detain the defendant for 24 hours at the maximum from the moment when he/she is found.

The court that has ordered that the general writ for body attachment be issued shall be obliged to immediately withdraw it when the person sought is found or when conducting of the misdemeanour proceedings or enforcement of misdemeanour sanctions becomes time-barred or when other reasons due to which the pursuit is no longer required occur.

Apprehension of a Suspect for a Committed Misdemeanour Prior to Initiating a Procedure

Article 190

Authorized police officers may, even without a court order, apprehend a person caught while committing a misdemeanour:

1) if the identity of such person cannot be determined or where there is a need to check his/her identity;

2) if he has no domicile or residence;

3) if, by going abroad, he/she may avoid misdemeanour liability, in case of misdemeanours for which no misdemeanour notice can be issued;

4) if, by means of such bringing, he/she is prevented from continuing to commit misdemeanour, i.e. if there is a danger that he/she will directly continue committing the misdemeanour, repeat the misdemeanour or avoid the misdemeanour proceedings.

Apprehension of the suspect in the cases referred to in paragraph 1 of this Article must be conducted without delay.

If, in the cases referred to in paragraph 1 of this Article, the suspect has been caught while committing the misdemeanour and he cannot be brought to the court immediately, and where there is reasonable doubt that he would escape or danger that he would directly continue committing misdemeanours, the authorized police officer may keep the suspect for 24 hours at the maximum.

In the case referred to in paragraph 3 of this Article, the authorized police officer shall be obliged to, without delay, notify a person chosen by the detained person of the detention, as well as the diplomatic and consular representative of the state whose national has been detained, i.e. the representative of the relevant international organisation if the person detained is a refugee or a stateless person.

By way of exception from paragraph 1 of this Article, a detention measure can be imposed against a minor by means of a court order only.

A resolution on detention shall be passed on apprehension of the suspect.

The defendant and his lawyer shall be entitled to appeal against the resolution on detention within four hours from the delivery of the resolution on detention.

An individual judge with the misdemeanour court with territorial jurisdiction shall decide on the appeal within four hours from the receipt of the appeal.

The appeal shall not have suspensive effect on the enforcement of the resolution.

Provisions of paragraphs 6 through 9 of this Article shall additionally apply to detention of persons under the influence of alcohol or other psychoactive substances.

Detention of a Defendant

Article 191

In a misdemeanour proceedings, a defendant can be detained by a court order in the following cases:

1) if his/her identity or domicile, i.e. residence cannot be determined, and there is reasonable doubt that he/she will escape;

2) if, by going abroad, he/she may avoid misdemeanour responsibility for which prison sentence is laid down;

3) if he/she has been caught while committing the misdemeanour and detention is necessary in order to prevent further committing of misdemeanour.

The judge will notify the family members of the person detained or other persons in charge of taking care of the minor where detention is ordered against him/her.

Attachment

Article 192

The court shall issue an attachment against the defendant in which date and hour when the detention is ordered shall be specified in addition to the legal grounds for the detention. Detention may not last longer than 24 hours.

The attachment shall be imparted to the defendant against his/her signature.

The defendant which has been detained shall be allowed without delay to notify of such detention a person of his/her choice, as well as the diplomatic and consular representative of the state whose national he/she is, i.e. the representative of the relevant international organisation if it is a case of a refugee or a stateless person or a person without a defence counsel, where the defence counsel has not been present on the occasion of his/her hearing.

Detention of a Person under the Influence of Alcohol or other Psychoactive Substances

Article 193

A person under the influence of alcohol or other psychoactive substances caught while committing a misdemeanour may, in accordance with the court order or on the basis of a resolution of an authorized police office, be detained if there is a danger that he/she will continue to commit misdemeanours.

The detention of a person in the case referred to in paragraph 1 of this Article may last until sobering up or for 12 hours at the maximum.

If the person referred to in paragraph 1 of this Article is a driver of a motor vehicle and has in excess of 1.20 mg/ml of alcohol in the blood or is under the influence of some other stupefying substances, detention shall be mandatory.

Detention shall additionally be mandatory where the person referred to in paragraph 1 of this Article has refused to undergo a test for the presence of alcohol or other stupefying substances.

Where it is possible, in the case referred to in paragraph 1 of this Article, the judge shall notify the family member of the detained person or other persons in charge of taking care of the minor where detention is ordered against him/her.

Conditions for a Bail

Article 194

Where a misdemeanour proceedings has been initiated against a defendant who does not have a permanent domicile in the Republic of Serbia or who is temporarily staying abroad, as well as in other cases where there is a danger that he/she may avoid responsibility for the misdemeanour by running away, it can be requested that he/she personally or some other person on his/her behalf deposit a bail that he/she will not run away until completion of the misdemeanour proceedings, and that the defendant himself/herself promise that he/she shall not hide and that he/she shall not leave his/her residence without permission.

A bail may not be determined before the defendant is heard or without his/her consent.

Upon determining the bail, the court conducting the misdemeanour proceedings shall request the defendant to designate his/her proxy or a proxy for receipt of notices.

Contents and Amount of a Bail

Article 195

A bail shall always be for an amount of money.

A bail shall consist of depositing cash, securities, valuables or other movable items of higher value which can easily be exchanged for money and kept, or of a personal obligation of

one or several citizens that in case that the defendant runs away they will pay the determined bail amount.

The amount of bail shall be determined up to the amount of the highest fine prescribed for the misdemeanour for which the proceedings is conducted, increased by the expected costs of the misdemeanour proceedings.

Where the proceedings is conducted against the same defendant for several misdemeanours, the bail shall be determined as the amount of punishment that can be imposed for concurrent misdemeanours.

In the cases referred to in paragraphs 3 and 4 of this Article, the bail can be increased by the amount of the property claim put forward by the aggrieved party.

The amount of bail shall be determined by the judge who conducts the misdemeanour proceedings and in compliance with the gravity of the misdemeanour, amount of damage incurred, personal and family circumstances and economic standing of the defendant.

Bail in Case of Going Abroad

Article 196

Where the misdemeanour is perpetrated by a person who does not have domicile in the Republic of Serbia and who wishes to leave its territory before the court decision becomes effective, a bail can be determined at the proposal of the defendant independently from the conditions referred to in Article 194, paragraph 1 of this Law, where the amount of bail shall be determined as the amount of the highest fine that can be imposed for the misdemeanour for which the proceedings is conducted, increased by the amount of property claim put forward by the aggrieved party and for the expected costs of the misdemeanour proceedings.

Leaving the Territory of the Republic of Serbia and Bail

Article 197

If the defendant runs away or leaves the territory of the Republic of Serbia, it shall be determined by means of a resolution that the amount provided as bail shall be registered as income of the budget of the Republic of Serbia.

Bail Procedure

Article 198

A bail shall be retained, as a rule, until passing of a legally effective judgement.

If the legally effective acquittal or decision on discontinuation of the misdemeanour proceedings has been passed, the bail posted shall be returned.

If upon legal enforceability of the judgement the person punished does not pay the damage or costs of the misdemeanour proceedings, the amount set shall be collected from the bail posted, and where the amount posted is not sufficient, the amount of damage shall be compensated from it primarily.

If the person punished does not pay the fine, i.e. the determined amount of proceeds confiscated, upon collection of damage and costs of the misdemeanour proceedings, the fine shall be collected in its entirety and then the determined proceeds, from the remaining amount.

If the person punished fails to appear to serve the prison sentence or fails to appear for the enforcement of the safeguard measure, the remaining bail amount shall be kept in its entirety and paid in as income of the budget of the Republic of Serbia.

Retention of Personal Identification Document

Article 199

The court may retain the travel document or another identification document of the defendant until the judgement enforcement, if it finds that the person punished whose the place of residence is abroad might thwart enforcement of judgement by leaving the territory of the Republic of Serbia.

The court shall determine retention of identification document at the proposal of the moving party or *ex officio*.

A certificate shall be issued on retention of identification document.

Chapter XXII

HEARING A DEFENDANT

Method of Hearing

Article 200

As a rule, a defendant shall be heard orally.

A defendant can be heard in the absence of the defence counsel if the defence counsel is unjustifiably absent despite having been notified of the hearing or if for the first hearing the defendant has not provided a defence counsel and if the defendant declares that he/she shall provide defence without a defence counsel.

Statements of the defendant on the reasons for absence of the defence counsel shall be recorded in the transcript.

A decision cannot be based on a statement made by the defendant who has not been cautioned of the right to have a defence counsel of his/her choice or to be heard in the presence of a defence counsel.

When the defendant is heard for the first time, he/she shall be asked to provide his/her first name, nickname if any, personal name of one parent, place and date of birth, unique personal identification number, nationality, profession, address of residence and work, electronic mail address, family circumstances, his/her professional qualifications, his/her economic standing, the dinar and foreign currency bank account numbers, whether he/she has been convicted or punished for a misdemeanour and for what, whether a criminal or misdemeanour proceedings is conducted against him/her and for what offence, and if he/she is a minor, who his/her legal representative is.

For providing false and incomplete information referred to in paragraph 5 of this Article, the court may punish the defendant with a fine up to 50,000 dinars.

If, following the decision on punishment referred to in paragraph 6 of this Article, the defendant provides correct information, the judge may revoke the decision on punishment.

After taking personal data, the defendant shall be informed why he/she is accused and shall be invited to state everything that he/she has in his/her defence.

At hearing, the defendant shall be enabled to offer justification in an uninterrupted statement of all the circumstances that he/she is charged with and to present all the facts that are serve for his/her defence.

If the defendant does not want to answer or does not want to answer a question posed, he/she shall be advised that by doing that he/she may aggravate collecting evidence for his/her defence.

When the defendant completes his/her statement, he/she shall be asked questions, if necessary, to fill in the lacunae or to remove inconsistencies and ambiguities in his/her statement.

Provisions on hearing of a defendant shall apply *mutatis mutandis* to hearing of a responsible person with a legal person and an entrepreneur.

Hearing of a Representative of a Defendant Legal Person

Article 201

When a representative of a defendant legal person is heard for the first time, he/she shall be asked to provide the name and seat of the defendant legal person, personal name of the representative and his/her position, i.e. tasks performed in the legal person, number of business accounts of the legal person, TIN and company registration number of the legal person and whether the legal person has been convicted of a criminal offense, an economic misdemeanour or a misdemeanour.

Provisions on hearing of a defendant shall apply *mutatis mutandis* to hearing of a representative of a defendant legal person.

Respecting the Personality of a Defendant

Article 202

A defendant shall be heard with full respect for his/her personality.

Force, threat, deceit, promise, extortion, exhausting or other similar means must not be used against the defendant in order to get his/her statement or confession or any action that might be used against him/her as evidence.

Written Defence

Article 203

If the court finds that the direct oral hearing is not necessary bearing in mind the significance of the misdemeanour and information available to it, it may advise the defendant in the summons to provide his/her defence in written form. In such a case, the defendant may provide his/her defence in written form or appear in person to be heard orally.

Legal Assistance

Article 204

When a defendant has domicile or residence outside of the territory of the court before which the proceedings is conducted, at the request of such court, he/she may also be heard before the court in the territory of which the defendant has domicile or residence.

Confrontation

Article 205

The defendant may be confronted with a witness and with another co-defendant if their statements do not agree in respect of important facts and if such disagreement cannot be removed in some other manner.

Those confronted shall be positioned facing each other and they shall be requested to repeat their respective statements to each other on each contentious circumstance and to discuss the truthfulness of what they stated. The course of confrontation and statements at which those confronted finally remain shall be entered in the transcript by the court.

Hearing through an Interpreter and a Translator

Article 206

If the defendant is deaf, questions will be asked in writing, and if he/she is mute, he/she shall be invited to answer in writing. If the hearing cannot be conducted in this manner, a person who can communicate with the defendant shall be invited as an interpreter.

Where the defendant cannot understand the language of the proceedings, questions shall be asked to him/her through a translator.

Chapter XXIII

HEARING OF WITNESSES

Capacity of a Witness

Article 207

Persons who will probably be able to provide information about the misdemeanour and the offender and about other important circumstances shall be summoned as witnesses.

The aggrieved party can be heard as a witness.

Duty to Testify

Article 208

Each person who is summoned as a witness shall be obliged to obey the summons, and unless determined otherwise by this Law, he/she shall be obliged to testify as well.

Summoning a Witness

Article 209

A witness shall be served a written summons, in which the personal name and profession of the person summoned, the time and venue, the misdemeanour case in relation to which he/she is summoned, an indication that he/she is summoned as a witness and the warning against the consequences of any unjustified failure to appear shall be indicated.

A witness shall be summoned through the party that has proposed that he/she testifies, and where this is not possible, the court shall summon him/her directly.

Where the aggrieved party is summoned as a witness, this shall be indicated in the summons.

A minor who has not turned sixteen shall be summoned as witness through the legal representative i.e. through the guardian, except where this is not possible due to the need to act urgently or due to other circumstances.

Witnesses who, due to their old age, illness or severe physical disabilities cannot obey the summons can be heard in their apartments.

Prohibition to Testify

Article 210

The following cannot be heard as a witness:

1) a person who, by his/her testimony, would be in breach of the duty to keep the official or military secret, until he/she is excused from such duty by the competent authority;

2) the defence counsel of the defendant about what the defendant confided in him/her as his/her defence counsel, unless where the defendant personally requests that.

Excuse from the Duty to Testify

Article 211

The following shall be excused from the duty to testify:

1) the spouse of the defendant;

2) blood relatives of the defendant in direct line, relatives in the collateral line up to and inclusive of the third degree, as well as the relatives-in-law up to and inclusive of the second degree;

3) the adoptee and the adoptive parent of the defendant;

4) the religious confessor about what the defendant confessed to him.

The judge who conducts the misdemeanour proceedings shall be obliged to caution the persons referred to in paragraph 1 of this Article prior to their hearing or as soon as he/she learns for their relationship with the defendant that they do not have to testify. The caution and the response thereto shall be entered in the transcript.

A minor who, on account of his/her age and psychological development, is not capable of understanding the significance of the right not to have to testify, cannot be heard as a witness, unless where the defendant personally requests that.

The person who has grounds to refuse to testify against one of the defendants shall be excused from the duty to testify against other defendants as well where his/her testimony, by the nature of things, cannot be limited to other defendants only.

Consequence of the Breach of Rules on Testifying

Article 212

If a person who may not be heard as a witness (Article 210) or a person who is excused from the duty to testify (Article 211) is heard as a witness, and has not been cautioned against that or where he/she has not explicitly waived that right, or where the caution or the waiver has not been recorded in the transcript, or where a minor who cannot understand the significance of the right not to have to testify has been heard, or where the testimony of the witness has been obtained by force, threat or other prohibited means, decision cannot be based on such a testimony of the witness.

Refusal to Answer Certain Questions

Article 213

A witness shall not be obliged to answer certain questions where it is probable that by doing that, he/she would expose him/herself or a close relative to a deep disgrace, considerable material damage or criminal prosecution.

Method of Hearing Witnesses

Article 214

A witness shall be heard before the court that conducts the misdemeanour proceedings, and where the witness has domicile, i.e. place of stay outside of its territory, he/she can be heard before the court in the territory of which the witness has his/her domicile, i.e. place of stay.

Witnesses shall be heard individually and without presence of other witnesses.

A witness shall be obliged to provide testimony and answers to questions posed orally.

The witness shall be previously warned that he/she is obliged to speak the truth and that he/she must not withhold anything, and he/she shall then be cautioned that giving a false testimony is a criminal act.

The witness shall additionally be cautioned that he/she is not obliged to testimony if there are circumstances referred to in Article 211 of this Law, and such caution shall be entered in the transcript.

On the occasion of hearing, the witness shall be first asked to provide his/her personal name, the personal name of one parent, age, place of birth, domicile, occupation and his/her relation with the defendant and with the aggrieved party.

After the general questions, the witness shall be invited to state everything that he/she knows about the case, and then he/she shall be put questions for the purpose of verification, supplementing and clarifications.

The witness shall always be asked how he/she knows the things he/she is testifying about.

Where the witness is deaf or mute, he/she shall be heard in the manner provided for in Article 206 of this Law.

If the witness does not understand the language in which proceedings is conducted, he/she shall be heard in the presence and with the assistance from a translator who can speak the language spoken by the witness.

Confrontation of Witnesses

Article 215

Witnesses can be confronted if their testimonies do not agree in respect of the important facts. Those confronted shall be heard individually about each circumstance on which they testimonies mutually disagree and their answers shall be entered in the transcript.

Only two witnesses can be confronted simultaneously.

Provisions of Article 205, paragraph 2 of this Law shall apply to confrontation of witnesses.

A minor who has not turned fourteen and who is heard as a witness may not be confronted with the defendant or with another witness.

A minor older than fourteen and younger than eighteen years of age, who is heard as a witness, cannot be confronted with the defendant or with another witness if, due to the nature of misdemeanour, consequences and other circumstances, such person is particularly sensitive or is in a particularly difficult psychological condition.

Failure to Appear and Refusal to Testify

Article 216

If a witness who is duly summoned fails to appear and does not provide an excuse for such absence, or if he/she, without a permission or a justified reason, leaves the place where he/she should be heard, order can be issued to bring him/her in by force, and he/she may be punished with a fine ranging from RSD 10,000 to RSD 50,000.

If an official with the authorized authority which filed the motion for instituting the misdemeanour proceedings fails to obey the summons of the court to be heard in the capacity of a witness, and where he/she fails to justify his/her absence, the court may desist from hearing him/her.

Provisions on bringing of the defendant (Article 188) shall apply *mutatis mutandis* to brining of witnesses.

If the witness, following the warning of the consequences of a refusal to testify, does not want to testify without a lawful reason, he/she can be punished with a fine of up to RSD 10,000 and if even after that he/she refuses to testify, he/she can be punished with a fine of up to RSD 50,000.

The resolution on the fine imposed on the witness shall be entered in the transcript.

An appeal against the resolution on the fine shall not have suspensive effect on the enforcement of the resolution.

If the witness agreed to testify immediately after a fine has been imposed on him/her, it shall be out of force the penalty shall be revoked.

Where any costs are incurred due to the reasons referred to in paragraphs 1 and 3 of this Article, the witness can be obliged to bear such costs.

In case that the person punished fails to pay the fine and the costs of proceedings, they shall be collected through enforcement action.

Chapter XXIV

INVESTIGATION AT THE SCENE OF MISDEMEANOUR AND EXPERT INQUIRY

Investigation at the Scene of Misdemeanour

Article 217

If personal and direct observation by the judge conducting the misdemeanour proceedings is necessary for establishing or clarification of an important fact, investigation at the scene of misdemeanour shall be performed.

By way of exception from paragraph 1 of this Article, the court may conduct the investigation at the scene of misdemeanour *ex officio*, under condition referred to in Article 89, paragraph 5 of this Law.

An investigation at the scene of misdemeanour can be performed in the presence of expert witnesses.

The judge who conducts the misdemeanour proceedings shall specify which persons will be summoned to attend the investigation at the scene of misdemeanour.

Minutes shall be taken on the investigation at the scene of misdemeanour. The name of the court, i.e. administration authority which conducts the investigation at the scene of misdemeanour, information on persons present, results of the investigation at the scene of misdemeanour and other important fact shall be recorded in the minutes.

Expert Inquiry

Article 218

Expert inquiry shall be ordered at the proposal of the parties where it is necessary to obtain the findings and the opinion for establishing or assessment of an important fact from a person with the expert knowledge which the court lacks.

By way of exception from paragraph 1 of this Article, the court may order an expert inquiry *ex officio*, under the condition referred to in Article 89, paragraph 5 of this Law.

The expert inquiry shall be ordered by means of a written order by the court which conducts the misdemeanour proceedings. It shall be stated in the order in respect of which fact the expert inquiry shall be performed and to whom it shall be entrusted. As a rule, one expert witness shall be designated, and where the expert inquiry is complex, two or more expert witnesses shall be designated.

An expert inquiry can be entrusted to a relevant professional institution, a state authority or an expert, primarily from the list of standing expert witnesses, and other authorities or a person can be designated only where there is a threat from postponement, if the standing expert witnesses are prevented or where it is called for by other circumstances.

The name of the expert witness shall be imparted to the defendant and to the aggrieved party at their request.

Persons who Cannot be Expert Witnesses

Article 219

A person who cannot be heard as a witness (Article 210) or a person who is excused from the duty to testify (Article 211), or a person who is aggrieved by the misdemeanour cannot be taken as an expert witness, and where such a person has been taken as an expert witness, judgement cannot be based on his/her findings and opinion.

Request for Exemption of an Expert Witness

Article 220

Parties may request exemption of an expert witness due to the reasons prescribed in Article 112 of this Law.

Course of Expert Inquiry

Article 221

Prior to commencement of expert inquiry, the expert witness shall be invited to carefully examine the object of the expert inquiry, to accurately state everything that he/she observes and finds and to present his/her opinion in an impartial manner and in compliance with the rules of science or skill. He/she shall in particular be cautioned that giving a false testimony is a criminal act.

Article 222

Supplemental clarifications can be provided to the expert witness, and where necessary, he/she shall be acquainted with the situation in the files. At a grounded proposal of the expert witness, new evidence can be produced in order to establish the circumstances which are of importance for expert inquiry.

The expert witness shall examine the objects of expert inquiry in the presence of the judge who is conducting the misdemeanour proceedings and the recording clerk, unless where longer examinations are required for the expert inquiry or where the examinations are performed in institutions, i.e. in a state authority, or where it is called for by moral considerations.

Where there are suspicions in respect of the defendant's sanity, expert psychiatric assessment shall be ordered through an examination or observation in a health institution.

Findings and Opinion of an Expert Witness

Article 223

As a rule, the expert witness shall provide his/her findings and opinion in writing, within the time limit determined by the court.

By way of exception, an expert witness may be permitted to provide the findings and the opinion orally on the record. Any discrepancies or ambiguities in the findings and opinion of the expert witness shall be removed by hearing him/her or by repeating the expert inquiry through the same or another expert witness.

The written findings and the opinion of the expert witness shall be delivered to the parties to the proceedings, on which they may state their opinions within 15 days.

Punishing of an Expert Witness

Article 224

The person who is summoned as an expert witness shall be obliged to obey the summons and to provide his/her findings and opinion.

If the expert witness who has been duly summoned to appear fails to appear and fails to excuse his/her absence or where he/she unjustifiably refuses to conduct an expert inquiry, he/she can be ordered to compensate any costs thus incurred, and he/she may additionally be punished with a fine ranging from RSD 10,000 to RSD 50,000.

The resolution on punishing shall be recorded in the transcript, and the resolution on punishing made in writing shall additionally be delivered to the Ministry in charge of judiciary.

The appeal against the resolution on punishing of the expert witness shall not have the suspensive effect on the enforcement of the resolution.

In case that the expert witness does not pay the fine imposed, it shall be collected through enforcement action.

Article 225

Provisions of this Law which pertain to the expert witnesses shall apply *mutatis mutandis* to the interpreters.

Chapter XXV

SEARCH OF ROOMS AND PERSONS

Grounds for Search

Article 226

An apartment and other rooms, as well as persons, can be searched where it is probable that in the apartment, other rooms, objects or with certain persons an object or traces shall be found which could be important for the misdemeanour proceedings, or that the defendant will be caught by search of the apartment and other rooms.

Search of persons, rooms and objects which belong to persons enjoying immunity under the international law shall not be allowed.

Search Warrant

Article 227

A search shall be ordered by means of a written court warrant.

The search warrant shall be handed over, prior to commencement of the search, to the person with whom or on whom search will be conducted. Prior to the search, the person to whom the search warrant pertains shall be invited to voluntarily surrender the person or the objects that are searched for.

The search warrant shall be carried out by police.

Method of Search

Article 228

Two citizens of legal age shall be present during the search.

The holder of the apartment or the room shall be invited to be present during the search, and if he/she is absent, one of the adult members of the household or a neighbour shall be invited to be present during the search.

A search in the premises of the legal persons can only be performed in the presence of a representative of such legal person.

A search of persons shall be performed by only by the persons who are of the same sex as the person who is being searched and only the persons who are of the same sex as the person who is being searched can be present during the search in the capacity of witnesses.

Rooms, furniture or other objects that are locked shall be opened by force only where the person holding them or his/her attorney-in-fact is not present or does not wish to open them voluntarily. In doing that, incurring any unnecessary damage shall be avoided.

Minutes on Search

Article 229

Minutes shall be made on each search of an apartment, i.e. room or a person, in which the search warrant based on which the search is performed, the description of rooms, i.e. person which is being searched and of the persons, i.e. objects or traces which are found shall be stated.

The minutes shall be signed by the person with whom the search is being performed or which is being searched and by the persons whose presence is mandatory.

A transcript of the minutes shall be issued to the person with whom the search has been performed, i.e. to the person which has been searched.

Handling of Objects Found

Article 230

If, on the occasion of a search, objects are found which were used for committing a misdemeanour or which have been procured through a misdemeanour, or objects which may serve as proof in the misdemeanour proceedings, such objects shall be temporarily seized.

Temporary Seizure of Objects

Article 231

Objects that can be seized under this Law can temporarily be seized even before handing down of the judgement.

The temporary seizure of objects shall be ordered by the court by means of a written order. The order shall include the disposition and a brief explanation of the reasons for the temporary seizure of the object.

The law may additionally authorize the officials of the inspection authorities, officers of the customs service and the authorized police officers to temporarily seize the objects referred to in paragraph 1 of this Article when, in performing the official duty, they learn of a misdemeanour. The said authorities shall be additionally obliged to immediately notify the court of the temporary seizure of objects and to ensure keeping of such objects, unless where determined otherwise by the law.

The persons from whom the objects are seized shall be handed the order and issued a receipt with an accurate indication of the objects seized.

If it is a case of perishable objects or where their keeping requires disproportionate costs, the court shall order that such objects are sold and that the proceeds are handed over for keeping to a bank or another financial organisation.

Handling of the Temporarily Seized Objects

Article 232

The temporarily seized objects, i.e. the proceeds from the sale of objects shall be returned to the owner in cases where the misdemeanour proceedings does not end with a judgement whereby the defendant is announced responsible, except where it is called for by the interests of general safety or moral reasons, on which a separate resolution shall be handed down by the court.

Where the owner is not known and even within one year from the date of publication of an announcement no one applies for the object, i.e. the proceeds from the sale of the object, a resolution shall be handed down that the object shall become public property or that the proceeds are ascribed to the budget of the Republic of Serbia. This decision shall not interfere with the right of the owner to realize the proprietary rights in a civil proceedings.

Chapter XXVI

PLEA AGREEMENT

Conclusion of an Agreement

Article 233

When a misdemeanour is conducted for one misdemeanour or for a number of concurrent misdemeanours, the authorized person that filed the motion may, orally or in writing, propose to the defendant or to his/her defence counsel to conclude an agreement on pleading guilty to the misdemeanour (hereinafter: a plea agreement), i.e. the defendant or his/her defence counsel may propose conclusion of such an agreement to the authorized person that filed the motion.

When the proposal referred to in paragraph 1 of this Article is made, the parties or the defence counsel may negotiate the conditions of pleading guilty to the misdemeanours that the defendant is charged with.

A plea agreement can be concluded and delivered to the court until handing down of the first instance decision.

The plea agreement cannot be concluded in relation to a misdemeanour for which a misdemeanour notice is issued.

Contents of an Agreement

Article 234

A plea agreement shall include:

1) the description of misdemeanour that the defendant is charged with;

2) the confession of the defendant that he/she has committed the misdemeanour referred to in item 1 of this paragraph;

3) the agreement on the type of punishment and amount of fine, and/or on other misdemeanour sanctions;

4) the statement of the authorized person that filed the motion on desisting from the misdemeanour prosecution for the misdemeanours that are not covered by the plea agreement;

5) the agreement on costs of the misdemeanour proceedings, on the confiscation of proceeds from misdemeanour, on restitution of the object of misdemeanour and on the property claim, where filed;

6) the statement on the waiver of the parties and the defence counsel of the right to appeal against the decision of the court handed down on the basis of the acceptance of the plea agreement;

7) signatures of the parties and the defence counsel.

In the plea agreement, the authorized person that filed the motion and the defendant may agree on imposition of a punishment to the defendant which may not be below the statutory minimum prescribed in Article 39, paragraph 1 of this Law.

The defendant and the person that filed the motion may agree that the safeguard measure prescribed for the misdemeanour that the defendant is charged with is imposed with a narrower scope or that it is not imposed at all.

Deciding on an Agreement

Article 235

The court shall decide on the plea agreement, which may reject, accept or turn down the agreement.

The court shall reject the plea agreement if it has been submitted following the handing down of the first instance decision. No appeal shall be permitted against a resolution on rejection of a plea agreement.

Former paragraphs 3 through 5 are deleted (see Article 14 of the Law - 13/2016-12).

Decision on the Plea Agreement

Article 236

The court shall accept the plea agreement by means of a judgement if it determines on the basis of the agreement:

1) that the defendant has admitted to the misdemeanour knowingly and voluntarily admitted to the misdemeanour, i.e. misdemeanours which comprise the scope of the motion and that the possibility of a confession by the defendant in error is excluded;

2) that the agreement has been concluded in compliance with the provisions of Article 234 of this Law;

3) that the defendant is completely aware of all the consequences of the agreement concluded, and in particular that he/she completely understands that, by the agreement, he/she waives the right to trial and filing appeal against the court judgement handed down on the basis of the resolution on acceptance of the agreement;

4) that the plea agreement does not infringe the rights of the aggrieved party.

When one or more conditions from this Article is not fulfilled, the court shall hand down a resolution whereby the plea agreement is turned down. The confession of the defendant given in the agreement which is not accepted by the court cannot be evidence in the misdemeanour proceedings.

When the resolution referred to in previous paragraph of this Article becomes legally enforceable, the agreement and all the files which are related to it shall be separated in separate files and destroyed before the court, about which an official annotation in such separate case shall be made.

The court decision on the plea agreement shall be delivered to the authorized person that submitted the motion and to the defendant, i.e. to the defence counsel if he/she has one.

Appeal against the Decision on Plea Agreement

Article 237

Against the court resolution on turning down of a plea agreement, an appeal can be filed by the authorized person that filed the motion, the defendant and his/her defence counsel, within eight days from the day when the resolution is delivered to them.

No appeal shall be permitted against the decision of the court on acceptance of the plea agreement.

Former paragraphs 3 through 6 are deleted (see Article 16 of the Law - 13/2016-12).

Judgement on Acceptance of a Plea Agreement

Article 238

By means of the judgement whereby it accepts a plea agreement, the court announces the defendant responsible and imposes a punishment, i.e. another misdemeanour sanction against him/her and decides on other issues envisaged in the plea agreement.

The judgement must correspond to the contents of the plea agreement and must additionally include information referred to in Article 251 of this Law.

The judgement referred to in paragraph 1 of this Article shall be delivered to the persons referred to in Article 256 of this Law.

Where the plea agreement envisages desistance by the authorized person that filed the motion from misdemeanour prosecution for misdemeanours which are not covered by the plea agreement, the court shall hand down a judgement referred to in Article 253 of this Law in respect of these misdemeanours.

Chapter XXVII

TRIAL

Ordering of a Trial

Article 239

A trial shall be ordered when the court assesses that it is necessary for the purpose of proper and complete determining of the findings of facts.

The defendant and his/her defence counsel, the aggrieved party, the person that filed the motion to institute the proceedings and other participants in the proceedings shall be summoned to the trial. If the defendant is a legal person, the representative of the legal person shall be summoned to the trial.

In the summons to the trial, the defendant shall be cautioned that in case of a failure to obey the summons, his/her brining shall be ordered.

If the duly summoned defendant fails to appear in the trial and if he/she does not provide an excuse for such absence, the court shall postpone the trial and issue the order for brining him/her, where there are no conditions to hold the trial even without the presence of the defendant.

Failure of the Defendant to Appear

Article 240

The court may decide to hold the trial in the absence of the defendant who has been duly summoned if he/she has been heard, and where it finds that his/her presence is not necessary for proper establishing of the findings of facts.

Under the same conditions, a trial can be held in the absence of the duly summoned representative, i.e. defence counsel of the defendant legal person.

The trial can be held without the presence of the person that filed the motion.

The trial shall also be held if the duly summoned defence counsel of the defendant who has not provided an excuse for his/her absence fails to appear and the defendant has agreed to that.

Publicity

Article 241

A trial shall be public.

The court may exclude the public for the entire trial or for a part thereof where the general interests or moral reasons call for that.

If the proceedings is conducted against a minor, the trial shall be held without the presence of the public.

In the case referred to in paragraphs 2 and 3 of this Article, the court shall caution the persons present in the trial in which public is excluded that they are obliged to keep as a secret everything that they have learnt in the trial and it shall be point out to them that disclosing a secret is a criminal act.

Course of a Trial

Article 242

The court shall initially perform a check of the presence of those invited and it shall determine their identities.

The trial shall commence by presenting the contents of the motion to institute the misdemeanour proceedings, following which it shall proceed by hearing of the defendant. If the defendant is a legal person and the responsible person with the legal person, the representative of the legal person shall be heard first, and after him/her the responsible person. Witnesses cannot be present in the hearing of the defendant, representative of the legal person and the responsible person. Upon hearing of the defendant, evidence shall be produced by hearing witnesses and expert witnesses and other evidence shall be produced.

The court shall decide on producing of evidence by hearing of witnesses, expert witnesses and other evidence by means of a resolution.

The order of producing evidence shall be determined by the court.

During the proceedings, the court may revoke the resolution that it handed down on producing of an individual piece of evidence.

A transcript shall be made about the work on the trial, in which the entire course of the trial shall be recorded.

The transcript of the trial shall be signed by the parties present, the defence counsel, the judge, the recording clerk.

Rights of the Parties in a Trial

Article 243

The person that filed the motion, the defendant and his/her defence counsel, representative and defence counsel of the legal person and the aggrieved party shall be entitled to, during the trial, propose evidence and make other proposals, and upon approval of the judge who conducted the proceedings, they may put questions to persons that are heard.

The authorized representative of the person that filed the motion shall be entitled to modify the contents of the motion in the trial in respect of the factual description of the misdemeanour.

In the case referred to in paragraph 2 of this Article, the court shall postpone the trial by means of a resolution in order that the defendant can get acquainted with the modification of motion and in order that he/she can prepare the defence.

Following the completed evidence procedure, the parties and the defence counsel may give closing arguments with their respective assessments on the presented evidence. The closing argument shall always be due to the defendant, i.e. to the representative of the accused legal person.

Where the court finds that the trial should not be postponed for the purpose of supplementing the proceedings or for the purpose of preparation of defence of the defendant according to the modified motion, it shall conclude the trial, and it may hand down the judgement and publicly announce the disposition of the judgement inclusive of a brief statement of reasoning.

Where in the case referred to in paragraph 5 of this Article the defendant and the person that filed the motion declare that they do not request that the judgement made in writing be served to them and that they shall not appeal, the defendant shall be handed over, and the person that filed the motion shall be served, a transcript of the disposition of the judgement only.

Chapter XXVIII

MAINTAINING ORDER

Ensuring Maintenance of Order

Article 244

It is the duty of the judge to ensure that order is maintained during carrying out actions in a misdemeanour proceedings.

If a party to the proceedings, i.e. another person present disrupts order or does not obey the orders to maintain order, the judge shall warn him/her, and if the warning is unsuccessful, he/she may order that such person be removed, which shall be recorded in the transcript.

If the warning is unsuccessful, the persons referred to in paragraph 2 of this Article can be punished with a fine ranging from RSD 10,000 to RSD 50,000. The decision of the court which pertains to maintenance of order shall be entered in the transcript.

The attorney-in-fact or the defence counsel which following the fine continues to disrupt order may be denied further representation, i.e. defence by means of a resolution.

If a person fined does not pay the imposed fine within the time limit specified, the fine shall be collected by enforcement action.

No appeal against the resolution on punishment referred to in paragraphs 2 through 4 of this Article shall have suspensive effect on enforcement of the resolution.

Chapter XXIX

STAY OF PROCEEDINGS

Article 245

The court shall stay the proceedings by means of a resolution:

1) if the domicile of the defendant is not known or if he/she is on the run, or otherwise unavailable to state authorities, or is abroad for an unspecified period;

2) if the defendant has begun to suffer from a temporary mental illness or a temporary mental disorder.

Prior to staying of the proceedings, all pieces of evidence on misdemeanour and liability of the defendant that can be obtained shall be collected.

A proceedings stayed shall be resumed when the obstructions that have caused the stay terminate.

The person that filed the motion shall be notified of the stay and of the resumption of the proceedings, and in a misdemeanour proceedings in the field of customs, foreign trade and foreign currency operations, the aggrieved party as well.

Chapter XXX

JUDGEMENT AND OTHER DECISIONS

Handing down of the Judgement and of Other Decisions

Article 246

A misdemeanour proceedings shall be concluded by handing down of a conviction or an acquittal, resolutions whereby the proceedings is discontinued or resolutions whereby a corrective measure is imposed against a minor offender.

A written authenticated copy of the judgement, i.e. of the resolution shall be made within eight days from the date of completion of all actions in a misdemeanour proceedings which precede handing down of a judgement, i.e. resolution.

The judgement, i.e. the resolution shall be based on evidence presented and on the facts established during the proceedings.

Objective and Subjective Identity

Article 247

A decision in a misdemeanour proceedings shall pertain only to the person that is charged by the motion to institute the misdemeanour proceedings and only to the misdemeanour which is the subject matter of the motion filed.

The court shall be obliged to decide on the motion filed in its entirety.

The court shall not be bound by the proposals or the assessment in respect of the legal qualification of misdemeanour.

If, following instituting of a misdemeanour proceedings, the legal person against which the proceedings is conducted ceases to exist, the person that filed the motion to institute the proceedings may direct the motion against the legal successor.

Resolution on Discontinuation of a Misdemeanour Proceedings

Article 248

The misdemeanour proceedings shall be completed by means of a resolution on discontinuation where the court establishes:

1) that the misdemeanour proceedings has been conducted without a motion, i.e. that the person that filed the motion to institute the misdemeanour proceedings was not authorized to file it;

2) that the court does not have the *ratione materiae* jurisdiction to conduct the misdemeanour proceedings;

3) that the defendant, for the same act, has already been punished with a legally enforceable punishment, acquitted from liability in a misdemeanour proceedings or the misdemeanour proceedings was finally discontinued, but not due to any lack of jurisdiction;

4) that the defendant in a criminal proceedings, i.e. in an economic offence proceedings has been finally acquitted or announced guilty for the same event which also includes the characteristic of the misdemeanour;

5) that the defendant has diplomatic immunity;

6) that the limitation for conducting the misdemeanour proceedings has entered into effect;

7) that the defendant died in the course of the misdemeanour proceedings, i.e. that the accused legal person has ceased to exist and that it has no legal successor;

8) that the authorized person that filed the motion has desisted from the motion to institute the misdemeanour proceedings before the legal effectiveness of the decision.

The misdemeanour proceedings shall additionally be discontinued in other cases laid down by the law.

In the explanation of the resolution, reasons due to which the proceedings was discontinued and the regulation based on which it was done shall be stated in brief.

Handing down of a Judgement whereby Defendant's Liability is Pronounced

Article 249

The judgement whereby the defendant is pronounced liable for the misdemeanour shall be handed down when it is established in the misdemeanour proceedings that the misdemeanour and the liability of the defendant for such misdemeanour exist.

Handing down of a Judgement whereby the Defendant is Acquitted from Liability

Article 250

The judgement whereby the defendant is acquitted from liability shall be handed down by the court:

1) if the act which he/she has been charged with is not a misdemeanour according to the regulation;

2) if there are circumstances which exclude the misdemeanour liability of the defendant;

3) if it has not been proved that the defendant has committed the misdemeanour for which the motion to institute the misdemeanour proceedings was filed against him/her.

Contents of the Disposition of the Judgement whereby the Defendant is Pronounced Liable for a Misdemeanour

Article 251

Where the defendant is pronounced liable for a misdemeanour, the disposition of the judgement shall include:

1) the misdemeanour for which the defendant is pronounced liable with an indication of facts and circumstances which comprise the characteristics of the misdemeanour and which the application of the specific regulation on misdemeanour is dependent on;

2) the regulations that have been applied;

3) the decision on sanctions imposed;

4) the decision on confiscation of proceeds;

5) the decision on reckoning detention in the punishment imposed;

6) the decision on property claim;

7) the decision on costs of the misdemeanour proceedings.

Where the defendant is fined, the time limit for fine payment shall be indicated in the judgement.

Where the safeguard measure of seizure of an object is imposed, the manner in which the objects seized shall be handled shall additionally be specified in the disposition of the judgement.

When the imposed measure of the seizure of objects does not include the objects which are temporarily seized in accordance with Article 231 of this Law, it shall be laid down in the disposition of the judgement that such objects be returned to the owner.

Publishing of Judgement

Article 252

A judgement shall be pronounced orally if the defendant is present, and the judgement made in writing with an explanation shall be delivered to the defendant and to the person that filed the motion only where they request so.

If the judgement is published, only the disposition of the judgement shall be entered in the transcript with a statement that the judgement has been communicated orally, that a brief explanation of the judgement has been provided together with the instruction on legal remedy.

Where the defendant requests that judgement made in writing be delivered to him/her, the court shall be obliged to deliver it within eight days from the date of publishing thereof.

The defendant which is present will be handed over and the person that filed the motion shall be delivered only a transcript of the disposition of the judgement if:

1) the defendant declares that he/she does not request that the judgement made in writing be delivered to him/her;

2) where the defendant has waived the right to appeal.

The statement on waiver of right to appeal shall be made on the record and it must include signatures of the defendant and of the judge.

The court shall be obliged to, at the request of the person that filed the motion, draw up and deliver a written authenticated copy of the judgement with the explanation thereof. The time limit for appeal by the person that filed the motion shall run from the receipt of the written authenticated copy of the judgement with the explanation thereof.

Judgement for Several Misdemeanours

Article 253

Where a misdemeanour proceedings is conducted for several misdemeanours, the misdemeanours for which the defendant is pronounced liable and those for which he/she is acquitted or the proceedings is to be discontinued shall be indicated in the judgement.

Contents of a Judgement Made in Writing

Article 254

A judgement made in writing referred to in Article 252, paragraph 6 of this Law shall include: the introduction, the disposition, explanation and the instruction on the right to appeal, as well as the number, date, signature of the judge and the official seal.

The introduction of the judgement shall include: an indication that the judgement is handed down in the name of the people, the name of the court which has handed down the judgement, the personal name of the judge, the personal name of the defendant, place of domicile of the defendant i.e. the name and seat of the accused legal person, legal qualification of the misdemeanour which is the subject matter of the motion filed, date when the judgement is handed down and the basis for handing down of the judgement.

The disposition of the judgement shall include the basic information on the defendant referred to in Article 181, paragraph 1, item 3), the decision whereby the defendant is pronounced liable or acquitted from liability, the description of facts and the legal qualification of misdemeanour.

In the explanation of judgement, the contents of the motion to institute the misdemeanour proceedings, the established findings of facts with the statement of evidence based on which individual facts were proven, the reasons due to which the court has taken them as proven or not proven, the reasons due to which it has not taken into account individual proposals from the parties, regulations on which the judgement is based and the reasons for each point of the judgement shall be presented in brief.

In the instruction on the right to appeal, advice shall be provided on who the appeal is to be filed with, who it is to be submitted to, within what time limit, whether the appeal must be filed in writing, as well as that it may be submitted directly or sent by registered mail.

Correction of a Judgement and Other Decisions

Article 255

Any errors made in writing names and numbers and other obvious mistakes made in writing, calculation and transcribing in the judgement and other decisions shall be corrected *ex officio* or at a motion of the parties or the aggrieved party.

Corrections shall be made by means of a separate resolution, which shall become an integral part of the judgement or another decision which is being corrected.

Where the disposition of a court decision contains the errors referred to in paragraph 1 of this Article, the court shall be obliged to deliver the corrected transcript of the decision to the persons who have the right to appeal. The time limit for appeal shall run from the date of delivery of the corrected transcript of the decision.

Service of Judgement to the Participants in the Proceedings

Article 256

The judgement made in writing shall be served to the person that filed the motion and the defendant according to the provisions on service of this Law.

The judgement shall be served to the aggrieved party which is not the person that filed the motion where a decision on property claim has been made, to the person whose object has been seized by means of that decision, as well as to the person against which the measure of confiscation of proceeds has been imposed.

Service of an Orally Pronounced Judgement to a Defendant

Article 257

If the defendant requests that the authenticated copy of the judgement be served to him/her, the judge shall be obliged to have the authenticated copy served to him/her within eight days from the date when the judgement is made.

The request of the defendant within the meaning of paragraph 1 of this Article shall be recorded in the transcript against his/her signature.

Chapter XXXI

REGULAR LEGAL REMEDY

Filing of an Appeal

Article 258

An appeal can be filed against the judgement and the resolution of a misdemeanour court with the second instance misdemeanour court. The appeal shall be submitted to the court which has handed down the first instance decision.

The appeal shall be submitted within eight days from the date of delivery of the judgement or resolution.

Persons Authorized to File an Appeal

Article 259

An appeal can be filed by the defendant, the defence counsel and the person that filed the motion.

The appeal can be filed always against the judgement, and against the resolutions handed down in a misdemeanour proceedings only where the right to appeal is not excluded by the law.

An appeal can be filed for the benefit of the defendant by his/her spouse, relative by blood in direct line, brother, sister, legal representative, adoptive parent, adoptee, foster parent and the person with whom he/she lives in a common law marriage or in some other *sui juris* permanent union.

The time limit for appeal shall run from the date when the defendant is served the transcript of the judgement and where the defendant has the defence counsel, from the date when he/she is served the transcript of the judgement.

An appeal can be filed for the benefit of the accused legal person the legal representative as well as the authorized representative of the legal person.

Where a safeguard measure has been imposed comprising of seizure of an object whose owner is not the defendant, the owner of the object can file an appeal only in respect of the decision on such measure.

Suspensive Effect of the Appeal

Article 260

An appeal filed in a timely manner shall have a suspensive effect on the enforcement of the decision, except in cases where it is specified otherwise by this Law.

Waiver of and Desistence from an Appeal

Article 261

The defendant and the person that filed the motion may waive the right to appeal following the pronouncement of the decision, and they may desist from an appeal filed until handing down of the second instance judgement.

A waiver of and a desistence from the right to appeal may not be revoked.

A waiver by a minor of the right to appeal shall not have any legal effect.

Contents of the Appeal

Article 262

An appeal should include:

1) a designation of the decision against which the appeal is filed;

2) a statement concerning which the appellant is dissatisfied with the decision;

3) signature of the appellant.

New facts can be presented and new evidence can be proposed in the appeal. When referring to the new facts, the appellant shall be obliged to state the evidence whereby such facts can be proven.

Where the appellant presents new evidence in the appeal, he/she shall be obliged to state why he/she hasn't presented such evidence earlier, as well as the facts which he/she proves by means of such evidence.

Grounds due to which a Judgement and a Resolution can be Contested

Article 263

A judgement and a resolution can be contested:

1) due to a significant breach of the provisions of misdemeanour proceedings;

2) due to a breach of provisions of substantive law;

3) due to erroneously or incompletely established statement of facts;

4) due to a decision on misdemeanour sanctions, confiscation of proceeds, costs of a misdemeanour proceedings and property claim.

Substantive Breaches of Provisions of Misdemeanour Proceedings

Article 264

A substantive breach of provisions of misdemeanour proceedings shall exist always where:

1) the misdemeanour proceedings was conducted and the judgement or resolution was handed down by a judge, who had been excluded by means of a legally enforceable decision from conducting proceedings and deliberation;

2) the misdemeanour proceedings was conducted and the decision was handed down by the judge who had to be excluded (Article 112, paragraph 1, items 1) through 5);

3) the defendant was not advised on the right to use the language, or, contrary to his/her request, he/she or his/her defence counsel were denied the right to use their own language in the oral trial or in the course of other activities in the misdemeanour proceedings and to follow the course of the oral trial, i.e. proceedings in his/her language (Article 94);

4) contrary to the law, public was excluded in the oral trial;

5) the court dismissed the motion to institute the misdemeanour proceedings contrary to the provisions of Article 184 of this Law;

6) the court, by means of a resolution, discontinued the misdemeanour proceedings contrary to the provisions of Article 248 of this Law or handed down the judgement whereby the defendant is acquitted from liability contrary to the provisions of Article 250 of this Law;

7) the judgement or the resolution has been handed down by the court which, due to the lack of *ratione materiae* jurisdiction could not adjudicate in such matter (Article 110);

8) the orally pronounced judgement was not recorded in the transcript (Article 252, paragraph 2);

9) the court did not decide in entirety on the motion to institute a misdemeanour proceedings (Article 247, paragraph 2);

10) the court decided in spite the motion to institute a misdemeanour proceedings;

11) the judgement or the resolution is based on a piece of evidence on which it cannot be based according to the provisions of this Law, except where, bearing in mind other pieces of evidence, it is obvious that even without such piece of evidence the same decision would be handed down;

12) the judgement or the resolution is based on the statement of the defendant who was not cautioned of the right to take a defence counsel of his/her choice or to be heard in the presence of the defence counsel;

13) the provision of Article 96 of this Law has been breached;

14) the disposition of the judgement or resolution is unintelligible.

A substantial breach of the provisions of misdemeanour proceedings which influenced or could have influenced handing down of a lawful and proper judgement or resolution shall additionally exist where:

1) the defendant in the misdemeanour proceedings was not heard prior to handing down of the decision except in the cases referred to in Article 93, paragraph 3 and Article 187, paragraph 7 of this Law;

2) the disposition is contradicting the reasoning of the judgement or the resolution;

3) the judgement or the resolution does not have any reasoning or reasoning on the decisive facts are not stated, or such reasoning is completely unclear, or to a significant degree contradictory, or where there is a significant contradiction between what is stated in the reasoning, on the contents of the documents or the transcript on the statements given in the proceedings and the actual documents or transcripts, except in the case referred to in Article 252, paragraph 4 of this Law;

4) in the course of the misdemeanour proceedings or on the occasion of handing down of the decision the court did not apply or applied erroneously any provision of this Law, or in the course of the misdemeanour proceedings has violated the right to defence.

A Breach of Substantive Law

Article 265

A breach of substantive misdemeanour law shall exist where the court has not applied or has erroneously applied the provisions whereby it is established:

1) whether the act with which the defendant is charged is a misdemeanour;

2) whether there are any circumstances which exclude the liability for misdemeanour;

3) whether there are any circumstances which exclude instituting and conducting of a misdemeanour proceedings, and in particular whether the staleness has come into effect or the matter has already been finally adjudicated;

4) whether in respect of the misdemeanour which is the subject matter of the motion to institute a misdemeanour proceedings a law or another regulation is applied which cannot be applied;

5) whether by the decision on punishment, safeguard measure, another misdemeanour sanction or on the confiscation of proceeds, the authority which is bestowed upon the court by the law has been overstepped;

6) whether the provisions on reckoning of detention and sentence served has been breached.

Erroneously or Incompletely Established Statement of Facts

Article 266

A decision can be contested due to the erroneously or incompletely established statement of facts where a decisive fact has been established erroneously or has not been established by the court.

The incompletely established statement of fact shall additionally exist where the new facts or new evidence are indicative of that.

Contesting Judgements and Resolutions due to a Decision on Sanction and Other Reasons

Article 267

A decision can be contested due to a decision on misdemeanour sanctions where by such decision the statutory powers (Article 265, paragraph 1, item 5) have not been overstepped by the court has not properly weighted the punishment in view of circumstances which impact the punishment to be stricter or lighter.

A decision on punishment can additionally be contested in cases where the court has applied or not applied the provisions on mitigation of punishment, on release from punishment, or where it has not imposed an admonition despite the existence of legal conditions for that.

A decision on a safeguard measure, another misdemeanour sanction or confiscation of proceeds can be contested where there is no infringement referred to in Article 265, paragraph 1, item 5) of this Law and the court has improperly handed down such decision or has not imposed any safeguard measure and/or confiscation of proceeds despite the existence of legal conditions for that.

A decision on a property claim as well as a decision on costs of a misdemeanour proceedings can be contested when the court has handed down a decision on that contrary to the law.

Procedure for an Appeal

Article 268

The court shall dismiss, by means of a resolution, any belated, unpermitted appeal or an appeal filed by an unauthorized person.

The timely, permitted appeals and appeals filed by the authorized persons shall be delivered by the misdemeanour court enclosed with the case files to the second instance misdemeanour court within three days.

Decisions of the Second Instance Misdemeanour Court

Article 269

The second instance misdemeanour court shall hand down the decisions in the form of a judgement or a resolution.

The judgement of the first instance misdemeanour court shall be confirmed or reversed by means of a judgement.

By means of a resolution, an appeal filed against a judgement or resolution shall be dismissed, a decision on an appeal against a resolution shall be handed down or a judgement of a misdemeanour court shall be repealed.

By means of a resolution, a judgement or a resolution shall be reversed due to the reasons prescribed by Article 248 of this Law.

Method of Deciding on an Appeal

Article 270

When deciding on an appeal against a judgement or a resolution of a misdemeanour court, the second instance misdemeanour court may:

1) dismiss the appeal;

2) reject the appeal as unfounded and confirm the first instance decision;

3) grant the appeal, and reverse or repeal the first instance decision.

Dismissing of an Appeal by the Second Instance Court

Article 271

The second instance misdemeanour court shall dismiss an appeal by means of a resolution as belated, unpermitted of filed by an unauthorized person, where it establishes that the court that conducted the proceedings has failed to do so.

Limitations for Examining a First Instance Decision

Article 272

The second instance misdemeanour court shall examine the first instance decision in the part thereof which is contested by the appeal, but it must *ex officio* always examine:

1) whether there is any substantial breach of the provisions of the misdemeanour proceedings referred to in Article 264, paragraph 1, item 1) and items 6) through 14) of this Law;

2) whether the substantive law has been infringed to the detriment of the defendant (Article 265).

Where an appeal filed for the benefit of the defendant does not include any grounds for contesting the decision (Article 263), the second instance misdemeanour court shall limit the examination to the breaches referred to in paragraph 1 of this Article, as well as to examination of decision on misdemeanour sanction and confiscation of proceeds (Article 267).

Confirming of a First Instance Decision

Article 273

The second instance misdemeanour court shall, by means of a judgement, dismiss an appeal as unfounded and confirm the first instance decision where it establishes that the reasons due to which the decision is contested or the breach of the law referred to in Article 272 of this Law do not exist.

Reversal of a First Instance Decision

Article 274

The second instance misdemeanour court shall grant the appeal and by means of a judgement reverse the first instance decision where it establishes that:

1) the decisive facts in the first instance proceedings were properly established and that in view of the established statement of facts, according to the proper application of law, a different decision should be handed down;

2) there are such breaches of law which may be removed by the reversal of the first instance decision;

3) on the occasion of weighting of the punishment and/or imposition of the safeguard measure not all the circumstances which are impacting proper weighting of punishment and/or lawful imposition of a safeguard measure have been taken into account;

4) the circumstances which are taken into account have not been properly assessed;

5) the court which conducted the misdemeanour proceedings has erroneously assessed the documents and evidence which it did not produced itself, and the resolution or the judgement is based on such evidence.

Repealing of a First Instance Decision

Article 275

The second instance misdemeanour court shall grant the appeal and by means of resolution repeal the first instance decision and remand the case to the court for a renewed proceedings:

1) where there is a substantial breach of provisions of the misdemeanour proceedings which has impacted the lawful decision making;

2) where the court, contrary to the provisions of this Law, has established the statement of facts erroneously or incompletely, due to which a supplement or a new proceedings should be conducted;

3) where the misdemeanour proceedings was discontinued or a judgement was handed down whereby the defendant was acquitted of liability due to an erroneous assessment of evidence or erroneous application of substantive law.

Due to the reasons referred to in paragraph 1 of this Article, the first instance decision can additionally be revoked in a part thereof, if the individual parts of the decision can be separated without any detriment to proper adjudication.

Explanation of the Second Instance Decision

Article 276

In the explanation of decision, the second instance misdemeanour court shall assess the allegations of the appeal and point out to the infringements of the law which it has *ex officio* taken into account.

Where the first instance decision is repealed due to a breach of provisions of misdemeanour proceedings, it shall be stated in the explanation which provisions have been breached and what the breach is reflected in.

Where the first instance decision is repealed due to erroneously or incompletely established statement of facts, the deficiencies, i.e. reasons why the new evidence and new facts are important for handing down of a proper decision.

Where the first instance decision is repealed in the cases referred to in paragraphs 2 and 3 of this Article, the second instance court shall issue orders on actions of the misdemeanour court in the repeat proceedings.

Effect of an Appeal in Favour of the Co-defendants

Article 277

Where the second instance misdemeanour court further to anybody's appeal filed against a decision establishes that the reasons due to which it has handed down the judgement or resolution in favour of the defendant are also beneficial for any one of the co-defendants who has not filed an appeal or has not filed it in that direction, it shall *ex officio* act as if such an appeal exists.

Service of a Second Instance Decision

Article 278

The second instance misdemeanour court shall return all the files to the first instance court with a sufficient number of certified transcripts of its judgement and resolution for the purpose of service thereof to the defendant, the person that filed the motion and other interested parties.

Obligations of a Misdemeanour Court

Article 279

The misdemeanour court shall be obliged to perform all the actions and to discuss all the contentious issued to which the second instance misdemeanour court has pointed out in its decision whereby the first instance decision is repealed.

In handing down of a new decision, the court shall be bound by the prohibition prescribed in Article 96 of this Law.

Chapter XXXII

EXTRAORDINARY LEGAL REMEDIES

1. Motion for Repetition of a Misdemeanour Proceedings

Reasons for Repetition of a Proceedings

Article 280

A misdemeanour proceedings completed by means of a legally effective decision can be repeated where:

1) it is proven that the decision is based on a false document or on a false testimony of a witness or an expert witness;

2) it is proven that the decision was handed down due to a criminal act of the judge or another official who participated in the proceedings;

3) it is established that the person which is punished for the misdemeanour has already been punished once for the misdemeanour, economic offence or a criminal offence for the same act;

4) new facts are presented or new evidence is submitted which would have, in themselves or in relation to previous evidence, led to a different decision, had they been known in the previous proceedings;

5) the defendant gets an opportunity to use the decision of the European Court of Human Rights whereby a violation of a human right is established, and that could have influenced handing down of a more favourable decision for the defendant;

6) the Constitutional Court, in a proceedings instituted by means of a constitutional appeal, has established a violation or denial of a human or minority right and freedom guaranteed by the Constitution in the misdemeanour proceedings, which could have influenced handing down of a more favourable decision for the defendant.

The facts referred to in paragraph 1, items 1) through 3) of this Article shall be proven by a legally enforceable court decision.

If the proceedings against the persons referred to in paragraph 1, items 1) through 3) of this Article cannot be conducted because they are dead or because there are circumstances which exclude criminal prosecution, the facts referred to in paragraph 1, items 1) and 2) of this Article may also be established by other evidence.

Filing of Motions for Repeating the Proceedings

Article 281

A motion for repeating a misdemeanour proceedings can be filed by the punished. For the benefit of the punished person, the motion can additionally be filed by the persons referred to in Article 259, paragraph 3 of this Law.

A motion for repeating of a proceedings shall be filed within 60 days from the date on which the party learnt of the existence of facts and circumstances referred to in Article 280, paragraph 1, items 1) through 6) of this Law.

The motion for repeating of a proceedings cannot be filed upon the expiry of the time limit of two years from the date on which the decision in relation to which repeating of proceedings is requested became legally enforceable.

Procedure for the Motion

Article 282

The court which has handed down the first instance decision shall decide on the motion for repeating of a misdemeanour proceedings.

It should be stated in the motion on which legal ground repetition of the proceedings is requested and by means of which evidence the facts on which the motion is based are corroborated.

If the motion does not contain such information, it shall be dismissed by means of a resolution.

The motion shall additionally be dismissed when the court, based on the motion and evidence from the case file from the previous proceedings, establishes that the motion has been filed by an unauthorized person or that the motion was filed in an untimely manner or that there are no legal conditions for repeating of the proceedings or that the facts and evidence which the motion is based on are obviously not suitable to permit the repetition on the basis of them.

An appeal can be filed against the resolution whereby the motion for repetition of proceedings is dismissed within eight days from the date of service thereof.

A motion for repetition of a misdemeanour proceedings for the benefit of the punished person may be filed even after the enforcement of the decision.

Decisions further to a Motion for Repetition of Proceedings

Article 283

If the misdemeanour court does not dismiss a motion to repeat a proceedings, it shall repeat the proceedings in the scope which is necessary for establishing the facts due to which the motion has been filed.

Depending on the result of the repeat proceedings, the motion shall be dismissed by means of a resolution or alternatively by means of a new decision the previous one shall be repealed in its entirety or in a part thereof.

An appeal can be filed against the resolution whereby a motion to repeat the proceedings is dismissed within eight days from the service date thereof.

Where repetition of the proceedings is granted, in the repeat proceedings the court shall be bound by the prohibition prescribed in Article 96 of this Law.

No appeal shall be permitted against the resolution whereby repetition of the proceedings is permitted.

Deferring Enforcement of a Decision

Article 284

A motion to repeat a misdemeanour proceedings shall not have the suspensive effect on the enforcement of decision, but where the court assesses that the motion can be granted, it may decide to defer the enforcement until the decision on the motion to repeat the proceedings has been taken.

A resolution whereby repetition of a proceedings is permitted shall have suspensive effect on enforcement of decision against which such repetition has been permitted.

2. Request for the Protection of Legality

Submission of Requests for the Protection of Legality

Article 285

A request for the protection of legality may be submitted against the legally enforceable judgement if:

1) the law or another regulation on the misdemeanour has been infringed;

2) the law for which it has been established by means of a decision of the Constitutional Court that it is not in accordance with the Constitution, generally accepted rules of international law and ratified international treaties has been applied.

A request for the protection of legality shall be raised by the Republic Public Prosecutor within three months from the judgement service date.

Deciding upon a Request

Article 286

The Supreme Court of Cassation shall decide on a request for the protection of legality.

The court referred to in paragraph 1 of this Article shall notify the Republic Public Prosecutor of the council session.

Prior to presenting the case for deciding thereupon, the judge designated as the reporting judge may, where necessary, procure information about infringements of the law put forward.

Article 287

In deciding on a request for the protection of legality, the Supreme Court of Cassation shall restrict itself only to the examination of infringement of regulations to which the public prosecutor refers in his/her request.

The Supreme Court of Cassation shall decide on the request for protection of legality which was submitted due to an infringement of the law (Article 285, paragraph 1, item 1) only where it considers that it is an issue of significance for proper or uniform application of the law.

The Supreme Court of Cassation shall reject a request for protection of legality as ungrounded by means of a judgement if it establishes that there is no infringement of regulation pointed out to in the request.

When the Supreme Court of Cassation establishes that the request for protection of legality is founded, it shall hand down a judgement by which it shall, subject to the nature of the infringement, reverse the legally effective decision or revoke in its entirety or in a part thereof the decisions of the misdemeanour court and the second instance misdemeanour court and remand the matter to repeat adjudication to the misdemeanour court or shall alternatively restrict itself to establishing the infringement of regulation only.

Article 288

Where a request for protection of legality is raised at the detriment of the punished person, and the Supreme Court of Cassation finds that it is founded, it shall establish only that the infringement of the law exists, without interfering with the legally enforceable decision.

Where the Supreme Court of Cassation finds that the reasons due to which it has handed down the decision in favour of the punished person exist for any of the punished co-defendants for which no request for protection of legality has been raised, it shall act *ex officio* as if such a request exists.

Where the request for protection of legality is raised in favour of the punished person, in handing down of the decision the Supreme Court of Cassation shall be bound by the prohibition referred to in Article 96 of this Law.

Delivery of Judgement

Article 289

The decision of the Supreme Court of Cassation shall be delivered to the misdemeanour court through the second instance misdemeanour court in the required number of copies.

Article 290

If the legally enforceable judgement has been revoked and the case is remanded to a repeat conducting of the misdemeanour proceedings, the previous motion to instigate the misdemeanour proceedings shall be taken as the grounds thereof.

The court shall be obliged to carry out all the procedural acts and to discuss the issues pointed out to it by the Supreme Court of Cassation.

In a repeat proceedings, new facts can be presented and new evidence can be submitted.

In handing down of a new decision, the court shall be bound by the prohibition referred to in Article 96 of this Law.

A request for protection of legality shall not have any suspensive effect to enforcement of judgement, but the Supreme Court of Cassation, in deciding on a request, may order to the court of relevant jurisdiction to defer i.e. stay the enforcement of judgement until it decides on the request raised.

Chapter XXXIII

PROCEEDINGS AGAINST MINORS

Application of Legal Provisions

Article 291

In a misdemeanour proceedings against a minor, provisions of this Chapter shall be applied, and other provisions of the misdemeanour proceedings provided for in this Law only if they are not contrary to these provisions.

Unless prescribed otherwise by this Law, in a misdemeanour proceedings against a minor, provisions of the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles (Službeni glasnik RS, No. 85/05) shall apply *mutatis mutandis*.

Urgency of Proceedings

Article 292

The misdemeanour proceedings against a minor shall be urgent.

Prior to imposing a correctional measure or a punishment against a minor, opinion shall be procured from the competent guardianship authority, unless where the minor has become of legal age in the meantime.

If the competent guardianship authority fails to provide its opinion within sixty days, the court may impose a reprimand or a fine against the minor even without the opinion of the guardianship authority, taking into account the mental development, sensitivity and personal characteristics of the minor. When taking actions against a minor in his/her presence, and in particular during hearing him/her, the persons participating in the proceedings shall be obliged to act with discretion, taking into account the mental development, sensitivity and personal characteristics of the minor.

Summoning of a Minor

Article 293

A minor shall be summoned through the parents, i.e. the legal representative, except where that is not possible due to the need to act urgently or due to some other justified reasons.

Where the minor is not summoned through parents, i.e. the legal representative, the court which conducts the misdemeanour proceedings shall notify them of the institution of proceedings.

Notices may not be put out for a minor by means of putting them out on the bulletin board of the court.

The Obligation to Testify

Article 294

No one can be released from the duty to testify about the circumstances required to assess the mental development of a minor, familiarization with his/her personality and circumstances under which he/she lives.

Severance and Consolidation of Proceedings

Article 295

When a minor has participated in committing of a misdemeanour together with persons of legal age, the proceedings against him/her shall be severed and conducted according to the provisions of this Law.

The proceedings against a minor may be conducted together with the proceedings against the persons of legal age and completed according to the general provisions of this Law only where consolidation of proceedings is necessary for thorough resolution of the matter.

The resolution on severance, i.e. consolidation of proceedings shall be handed down by the acting judge. No appeal shall be permitted against such resolution.

The Rights of Parents and Guardians

Article 296

In the proceedings against minors, the guardianship authority, parents, i.e. the legal representative of the minor shall have the right to familiarize themselves with the course of the proceedings, to put forward proposals in the course of the proceedings and to point out to the facts and evidence which are of importance for handing down of a proper decision.

Inappropriateness of Conducting of Proceedings

Article 297

The court may decide that the misdemeanour proceedings shall not be conducted against a minor where it is of the opinion that it would not be appropriate to conduct the proceedings, taking into account the nature of the misdemeanour and the circumstances under which the misdemeanour is committed, the previous life of the minor and his/her personal characteristics.

In the case referred to in paragraph 1 of this Article, the court shall, by means of a resolution, discontinue the misdemeanour proceedings, and the parent, adoptive parent, guardian, i.e. foster parent of the minor and the guardianship authority shall be notified of the misdemeanour committed for the purpose of taking measures within their respective scope of authorities.

The court shall decide on imposition of a corrective measure by means of a resolution.

Right to Submit an Appeal

Article 298

An appeal against the decision handed down in the proceedings whereby a sanction for a misdemeanour has been imposed against a minor can be filed, in addition to the persons referred to in Article 259 of this Law, the guardian, brother, sister and the foster parent of the minor.

The persons referred to in paragraph 1 of this Article may file an appeal for the benefit of the minor even against his/her will.

Treatment of a Child

Article 299

Where the court establishes that a minor at the time of perpetrating the misdemeanour did not turn fourteen, it shall discontinue the misdemeanour proceedings.

In the case referred to in paragraph 1 of this Article, the court shall notify the parent, the adoptive parent and the guardian of the minor, as well as the guardianship authority, of the misdemeanour committed, and where necessary it may additionally notify the school, i.e. the organisation in which the minor is accommodated.

Exclusion of the Public

Article 300

Public shall in all cases be excluded in the proceedings against a minor.

Chapter XXXIV

COMPENSATION FOR DAMAGE AND RETURN OF A MONETARY AMOUNT DUE TO UNJUSTIFIED PUNISHMENT

The Right to Compensation for Damage due to Unjustified Punishment

Article 301

The unjustifiably punished person shall have the right to compensation for damage.

An unjustifiably punished person shall be considered to be the person against whom a misdemeanour punishment, a safeguard measure or a corrective measure has been imposed by means of a legally enforceable decision, and due to an extraordinary legal remedy, the new misdemeanour proceedings has been finally discontinued or completed by an acquitting judgement, except in the following cases:

1) if the misdemeanour proceedings has been discontinued because in the new proceedings due to the extraordinary legal remedy the aggrieved party as the person that filed the motion desisted from the request to institute a misdemeanour proceedings, based on an agreement with the punished person;

2) if the new misdemeanour proceedings is discontinued due to the staleness of instituting and conducting of proceedings resulting from unavailability of the punished person;

3) if the punished person, by means of his/her false confession or in some other manner, has intentionally caused his/her punishment, except where he/she was compelled to that.

The Right to Compensation for Damage due to Unfounded Deprivation of Liberty or Enforcement of a Misdemeanour Sanction

Article 302

The right to compensation for damage shall additionally have the person:

1) against which enforcement of a misdemeanour sanction prior to legal effectiveness of the judgement is imposed in case of discontinuation of proceedings or acquittal from liability in the appellate proceedings;

2) who was detained and the misdemeanour proceedings against him/her was not instituted or the proceedings instituted was subsequently discontinued, but not due to the reasons referred to in Article 301, paragraph 2, items 2) and 3) or who has been acquitted from liability;

3) who has served a prison sentence and then, due to an extraordinary legal remedy or due to an appeal filed against the judgement whereby enforcement of judgement prior to the legal enforceability was ordered, a prison sentence has been imposed against him/her which is shorter than the punishment which he/she has served, or the misdemeanour sanction has been imposed which does not comprise of deprivation of liberty;

4) which has been unfoundedly detained longer than permitted by the law.

A person who has caused his/her deprivation of liberty through his/her own unpermitted actions shall not have the right to compensation for damage.

Mutatis Mutandis Application of the Code of Criminal Proceedings

Article 303

Unless prescribed otherwise by this Law, provisions of the law regulating criminal proceedings shall apply *mutatis mutandis* to compensation for damage due to unjustified punishment in a misdemeanour proceedings.

Restitution of Monetary Amounts

Article 304

The person against whom a fine, a measure of confiscation of proceeds or a safeguard measure of seizure of an object has been unjustifiably imposed in a misdemeanour proceedings shall have the right to repayment of the fine paid, restitution of confiscated proceeds, restitution of objects or monetary value of the seized object (hereinafter: restitution of monetary amount).

The punished person who has caused the punishment through his/her false confession may not request restitution of monetary amount.

Limitation of Rights

Article 305

The right of an unjustifiably punished person to claim compensation for damage and/or restitution of monetary amount shall become barred by limitation after three years from the enforcement of punishment.

The limitation referred to in paragraph 1 of this Article shall be suspended by submission of a claim to the Ministry in charge of judiciary.

Where the claim for compensation for damage and/or restitution of monetary amount is submitted by an unjustifiably punished person, after his/her death, his/her inheritors may resume the procedure for carrying out of the claim within three months from the date of death of the unjustifiably punished person, but only in respect of compensation for material damage.

If the unjustifiably punished person has waived the claim for compensation for damage and/or for restitution of monetary amount, such claim may not be submitted after his/her death.

Procedure for Exercising of Rights

Article 306

The authorized person shall be obliged to, prior to filing of an action with the court with his/her claim for compensation for damage, address the Ministry in charge of judiciary for the purpose of agreement on existence of damage and the amount of compensation.

If no agreement is reached within two months from the claim receipt date, the authorized person may file an action with the court of relevant jurisdiction for compensation of damage against the Republic of Serbia. The request for restitution of monetary amount shall be submitted to the Ministry in charge of finances.

If the competent authority dismisses the claim or fails to pass a resolution on such claim within two months, the authorized person may realize his/her claim through an action for compensation of damage against the Republic of Serbia.

During the course of procedure before the competent authority referred to in paragraphs 1 through 3 of this Article, limitation laid down in Article 305 of this Law shall not run.

Chapter XXXV

ENFORCEMENT OF DECISIONS

Acquiring of Enforceability Status

Article 307

A judgement, i.e. a resolution (hereinafter: decision) shall acquire the status of legal enforceability when they can no longer be contested by means of an appeal or where appeals are not permitted. A decision handed down in a misdemeanour proceedings shall be enforced when it becomes legally enforceable and when there are no legal obstacles for enforcement, unless where specified otherwise by this Law.

The decision whereby a fine is finally imposed or compensation for costs of proceedings or a property claim is adjudicated, or the measure of confiscation of proceeds is imposed shall be enforced upon the expiry of the time limit specified in the decision for payment of fine, costs of proceedings, proceeds, compensation for damage or restitution of objects.

The misdemeanour notice shall become enforceable upon the expiry of the time limit of eight days from the date of handing over.

Unless where specified otherwise for individual cases in the law, a decision shall be enforced upon the expiry of 15 days from its legal enforceability, and where an appeal has been filed against a decision, such time limit shall be calculated from the date of delivery of the second instance decision.

An order shall be enforced immediately unless the court which has issued the order determines otherwise.

If the legal person ceases to exist after a finally concluded proceedings in which liability is determined and a sanction for misdemeanour is imposed, the fine and deciding upon proceeds shall be enforced against the legal person which is its legal successor.

Enforcement prior to Legal Enforceability

Article 308

A conviction may be enforced even before its legal enforceability in the following cases:

1) if the defendant cannot prove his/her identity or has no domicile, or does not live at the address at which he/she is registered, or if he/she has domicile in a foreign country or if he/she goes abroad to stay there, and the court finds that there is reasonable doubt that the defendant will evade enforcement of imposed sanction;

2) if the defendant is punished for a graver misdemeanour in the field of public order and peace, safety of public transport or for a graver misdemeanour whereby the human life or health is threatened or where the interests of general safety or the safety of transactions in goods and financial transactions or the moral reasons call for that or where he/she is punished for a misdemeanour which may result in some graver consequences, and there is reasonable doubt that he/she shall continue to commit misdemeanours, repeat the misdemeanour or evade enforcement of imposed sanction.

In the cases referred to in paragraph 1 of this Article, the court shall determine in the judgement that the defendant shall accede to its enforcement even before the legal effectiveness of the judgement.

If the defendant files an appeal against the judgement whereby enforcement of judgement is determined prior to its legal enforceability, the court shall be obliged to deliver the appeal enclosed with the case file to the second instance misdemeanour court within 24 hours counting from the time when the appeal was received, and the second instance misdemeanour court shall be obliged to decide on the appeal and to deliver its judgement to the court within 48 hours counting from the time of receipt of the case file.

The person that filed the motion can file an appeal against the judgement referred to in paragraph 1 of this Article within 48 hours counting from the time of receipt of the judgement.

Enforcement of Fines, Duties and Costs of Proceedings

Article 309

Fines, punishments imposed due contempt of court, court duties and costs of proceedings imposed, decisions on property claims and on confiscation of proceeds shall be enforced in compliance with this Law.

***Mutatis Mutandis* Application of the Law on Enforcement of Criminal Sanctions**

Article 310

A prison sentence, an unpaid fine substituted by a prison sentence, a community service, safeguard measures and correctional measures shall be enforced in accordance with the law regulating enforcement of criminal sanctions, unless where prescribed otherwise by this Law.

Enforcement of the Safeguard Measure of Seizure of Objects

Article 311

The safeguard measure of seizure of objects shall be enforced by the authority competent for the enforcement, i.e. supervision of the enforcement of regulations in accordance to which the safeguard measures is imposed, unless where prescribe otherwise by the law.

Where a judgement determines that the object seized shall be handed over to a certain authority or organisation, such authority or organisation shall be invited to take the object over.

Where the offender has arbitrarily alienated or destroyed the object of the misdemeanour or has otherwise prevented enforcement, he/she shall be obliged by a separate court resolution to pay the monetary amount corresponding to the market value of such object at the time when the resolution is handed down.

Where the judgement determines that the seized object shall be sold, the authority referred to in paragraph 1 of this Article shall carry out the sale in compliance with the law regulating the tax procedure, unless where specified otherwise by a separate law.

The monetary amount acquired through the sale of a seized object shall be the income of the budget of the Republic of Serbia.

Notice on Execution of a Safeguard Measure

Article 312

The authorities which are under this Law obliged to execute the safeguard measures shall be obliged to notify the court which has imposed the measure of the execution of the safeguard measure.

Enforcement of Measure of Confiscation of Proceeds

Article 313

The measure of confiscation of proceeds shall be enforced by the court which has handed down the judgement.

Proceeds which could not be otherwise collected can be collected by enforcement from immovable property.

The enforced collection of confiscation of proceeds from immovable property shall be carried out by the court of relevant jurisdiction in accordance with the regulations on enforcement procedure.

The proceeds confiscated by means of a judgement shall be the income of the Republic of Serbia.

The enforcement of the measure of confiscation of proceeds imposed against a legal person which has ceased to exist after the legal enforceability of the judgement shall be

enforced against the legal person which has taken over its assets up to the amount of assets taken over.

The costs of enforcement shall be borne by the punished person.

Enforcement of a Fine and Other Monetary Amounts

Article 314

A fine imposed for a misdemeanour, the costs of a misdemeanour proceedings as well as other monetary amounts which are adjudicated on the basis of compensation for damage, on the basis of a property claim or on the basis of confiscation of proceeds shall be enforced by the misdemeanour court which has imposed them, i.e. the court in the territory of which the misdemeanour notice has been issued.

The fine, costs of misdemeanour proceedings and other monetary amounts shall be paid through a post office or a bank in a special paying-in slip which shall be filled out by the court of relevant jurisdiction, within the time limit specified in the decision.

Where a fine is imposed by means of a misdemeanour notice, the payment shall be effectuated through the account number which is indicated in the notice (Article 170, paragraph 1, item 11).

If the punished physical person, entrepreneur or a responsible person fails to pay the fine within the specified time limit, the court shall substitute it by the prison sentence or by community service, in compliance with Article 41 of this Law or alternatively collect it by enforcement.

If the punished legal person fails to pay the fine within the specified time limit, the court shall collect by enforcement.

Unpaid costs of proceedings and other monetary amounts adjudicated on the basis of a property claim, compensation for damage or confiscation of proceeds shall be collected by the court by enforcement.

Resolution on Enforcement

Article 315

Upon the expiry of the time limit for voluntary payment, the court which has handed down the first instance decision which is being enforced, i.e. the court in the territory of which the misdemeanour notice which is being enforced is issued shall hand down a resolution on enforcement.

By means of the resolution, the court shall determine whether the unpaid fine shall be substituted by the prison sentence or by the community service punishment or collected by enforcement.

The decision on how the unpaid fine shall be enforced shall be handed down by the court by weighting the reasons of appropriateness and efficiency in each individual case.

If the punished person pays the fine in its entirety following the handing down of the court resolution on substitution of the unpaid fine, the resolution shall be repealed, and the prison sentence or community service shall not be enforced or alternatively further enforcement thereof shall discontinued, where the enforcement of any of such punishments has commenced.

If the punished person pays a portion of the fine, the resolution shall be reversed by substituting the outstanding portion of the fine by the prison sentence or by community service or shall alternatively be collected by enforcement.

If the punished person fails to perform the community service or fails to pay the remaining portion of the fine after having served the prison sentence of ninety days, it shall be determined by means of a new resolution that the remaining portion of the fine shall be collected by enforcement.

Contents of the Resolution on Enforcement

Article 316

A resolution on enforcement shall include:

1) the court which has handed down the resolution;

2) the person against which the fine that is being enforced is imposed;

3) the enforceable decision whereby the fine has been imposed;

4) the amount of fine imposed;

5) the means of the object of enforcement as well as other information necessary for carrying out of enforced collection;

6) the decision on costs of enforcement;

7) the advice on legal remedy.

The resolution on enforced collection shall be delivered to the punished person, his/her defence counsel, as well as to the authority competent for enforcement of resolution.

Where the resolution on enforcement imposes enforced collection of unpaid costs of proceedings and other monetary amounts adjudicated on the basis of a property claim, compensation for damage or confiscation of proceeds, this shall be specifically indicated in the resolution.

Objection to a Resolution on Enforcement

Article 317

The punished person may file an objection against the resolution on enforcement within three days from the resolution receipt date due to the following reasons:

1) if the obligation which is to be enforced is fulfilled;

2) if the decision based on which substation of punishment is imposed or enforced collection is cancelled has been reversed, revoked and/or where it is not a legally enforceable document;

3) if the time limit for fulfilment of obligation has not expired;

4) if the court which has handed down the resolution on enforcement has no jurisdiction therein;

5) where the conditions for substitution of a fine referred to in Article 41 of this Law are not fulfilled;

6) if the enforced collection is imposed on things and rights exempt from enforcement, i.e. on which the possibility of enforcement is limited;

7) to a decision on costs of enforcement.

The objection to the resolution on enforced collection shall not have suspensive effect on the enforcement thereof.

The judge who handed down the resolution on enforced collection against which the objection is filed can him/herself revoke his/her resolution if he/she finds that the reasons in the objection are founded, and otherwise he/she shall deliver the objection enclosed with the case files to the competent council of such court.

The council comprising of three judges shall decide on the objection. The judge who has handed down the resolution on enforced collection to which the objection is filed cannot decide on such objection as a member of the council.

Means and Objects of Enforced Collection

Article 318

The means whereby enforced collection shall be carried out shall be:

1) the enforcement on the funds in the account of the punished person;

2) the enforcement on personal emoluments of the punished person;

3) the enforcement by inventorying, appraisal and sale of movable things and immovable property owned by the punished person.

The objects on which the enforced collection is carried out shall be the things and rights on which enforcement can be carried out under provisions of the law regulating enforcement and security.

The means whereby the enforced collection of fines, costs of proceedings and other monetary amounts is carried out as well as the objects on which enforced collection is to be carried out shall be specified by the court by means of a resolution on enforcement referred to in Article 315 of this Law.

Where it is determined during the enforcement of a resolution that the enforcement collection cannot be carried out on the means and objects of enforcement which are specified in the resolution, the court may reverse the resolution and specify another means and object of enforcement.

In a procedure of enforced collection, the costs of proceedings and the costs of enforcement shall be settled first.

The costs of enforced collection and the costs of execution shall be borne by the punished person.

After death of the punished physical person, responsible person or entrepreneur, the enforced collection of a fine, costs of misdemeanour proceedings and other monetary amounts shall not be carried out.

Carrying out of Enforced Collection on the Funds in the Account of the Punished Person

Article 319

Upon receipt of the resolution on enforcement, the enforced collection of fines, costs of proceedings and other monetary amounts from the accounts of punished persons which are maintained with the commercial banks shall be carried out by the authority for enforced collection in compliance with the provisions of the law regulating payment operations.

The authority for enforced collection shall be obliged to, within 30 days from the receipt date of the resolution on enforced collection, report to the misdemeanour court of relevant jurisdiction on the collection enforced or alternatively on the reasons for the failure to carry out the enforced collection.

Carrying out of Enforced Collection on Personal Emoluments of the Punished Person

Article 320

The court may, by means of a resolution on enforcement, determine that the enforced collection be carried out by means of an attachment on the personal emoluments of the punished person.

By means of the resolution referred to in paragraph 1 of this Article, the attachment on a specified portion of the personal emolument of the punished person shall be determined and the payer of these emoluments shall be ordered to, on the occasion of each payment of such emoluments, staring from the next payment following the receipt of the court decision and until collection in full, perform garnishment and to pay the amount withheld in the prescribed account for incoming payments.

The payer of personal emolument of the punished person shall be obliged to immediately obey the court order as well as to notify the court of relevant jurisdiction of any changes influencing the enforced collection within five days from the date of occurrence of such change ate the latest.

If the payer of the personal emolument of the punished person fails to garnish and pay the amount of personal emolument on which enforced collection is carried out in the prescribed

account for incoming payments, the court may hand down a resolution to carry out the enforced collection from the funds in the account of the payer.

Unless prescribed otherwise by this Law, provisions of the law regulating enforcement and security shall apply *mutatis mutandis* to enforced collection from the personal emoluments of the punished person.

Enforced Collection on Movable and Immovable Property of a Punished Person

Article 321

In case that it is not possible to conduct enforced collection in some other manner, the court may hand down a resolution that the enforced collection be conducted on movable or immovable property of the punished physical person, entrepreneur or responsible person.

The enforced collection on movable and immovable property of the punished person shall be conducted by the court with *ratione materiae* jurisdiction and territorial jurisdiction in compliance with the provisions of the law regulating enforcement and security.

Duty to Notify of Payment of Fine

Article 322

The authority competent for public payments shall be obliged to without delay notify the court, i.e. the administration authority which handed down the decision of the effectuated payment of the fine, costs of proceedings and other monetary amounts by delivering a report on payment with a statement of daily transactions on relevant accounts.

Article 323

Enforcement of judgement in respect of damage compensation and restitution of objects shall be carried out at the request of the aggrieved party, i.e. owner of objects.

The legally enforceable judgement shall be an enforceable title.

CHAPTER XXXVI

CONSOLIDATED REGISTERS

1. Register of Sanctions

Article 324

For the purpose of maintaining the consolidated records of misdemeanour sanctions imposed, a consolidated register of sanctions shall be maintained.

The register of sanctions shall be a centralized electronic database in which all pieces of information entered shall be stored and processed.

Storage and Handling of Information in the Register of Sanctions

Article 325

The register shall be stored in the central electronic data medium with the Ministry in charge of judiciary which shall be responsible for its maintenance and keeping.

The Ministry in charge of judiciary shall be obliged to take the technical, staff-related and organisational measures for the protection of information, in compliance with the determined standards and procedures, which are necessary to protect information from loss, destruction, unauthorized access, modification, publication and any other misuse, as well as to lay down the confidentiality obligation of the persons employed on processing.

Data Controller in the Register of Sanctions

Article 326

The president of the misdemeanour court shall designate a controller of data in the register who shall have the following authorisations and obligations:

1) to ensure lawful, systematic and updated entry, deletion and modification of information in the register;

2) to enable authorized persons to inspect the register;

3) to issue certified excerpts from the register and certificates that a person is not entered in the register;

4) to ensure keeping and archiving of documentation which provides the basis for entry, deletion or modifications of information in the register;

5) to carry out other activities necessary for uninterrupted and proper updating of information in the register, in compliance with the law.

Information that is Entered in the Register of Sanctions

Article 327

The following information shall be entered in the register of sanctions:

1) name and surname and the unique personal identification number of the punished physical person, entrepreneur, i.e. responsible person with a legal person, and/or the number of the travel document of a foreign physical person, for an entrepreneur the name and seat of the business;

2) the name and seat, TIN and company registration number for the punished legal person;

3) the legally effective, i.e. final decision whereby the misdemeanour sanction is imposed;

4) legal qualification of the misdemeanour committed;

5) the type and description of the imposed misdemeanour sanction;

6) the duration of the safeguard measure;

7) the misdemeanour court which handed down the judgement, i.e. the authority which issued the misdemeanour notice;

8) the misdemeanour court which performed the entry;

9) date of entry.

Entry of Information in the Register of Sanctions

Article 328

An entry of information referred to in Article 327 of this Law shall be performed by the court that has passed the legally effective, i.e. final decision that serves as the basis for the entry, i.e. by the first instance court in the territory of which the misdemeanour notice that serves as the basis for the entry has been issued.

Information shall be entered in the register of sanctions immediately upon the legal effectiveness, i.e. finality of the decision whereby the misdemeanour sanction is imposed, which shall be ensured by the court of relevant jurisdiction *ex officio*.

The person issuing the misdemeanour notice, in compliance with Article 173, paragraph 3 of this Law, shall be obliged to, immediately upon the expiry of the time limit referred to in Article 173, paragraph 2 of this Law, deliver to the court of relevant jurisdiction a copy of the misdemeanour notice issued with a conclusion on finality and a note on whether the fine is paid or not.

Deletion of Information from the Register of Sanctions

Article 329

A sanction imposed against a legal, physical and responsible person as well as against an entrepreneur shall be deleted from the records *ex officio* providing that the punished person does not commit a new misdemeanour within a time limit of four years from the date of the final decision whereby the sanction was imposed.

By way of exception from paragraph 1 of this Article, an admonition imposed shall be deleted within one year from the final decision whereby it was imposed.

The juvenile detention sanction imposed against a minor shall be deleted within two years from the moment when such sanction is served, time-barred or pardoned, providing that no new misdemeanour is committed.

A safeguard measure shall not be deleted from the misdemeanour records until it is enforced or until the limitation for enforcement of the safeguard measure starts to run.

Issuing of Information from the Register of Sanctions

Article 330

Information on punished persons from the register of sanctions can be only be provided to another court, competent prosecutor's office, police and inspection authorities, in relation to the criminal proceedings or misdemeanour proceedings conducted against a person that has previously been punished for a misdemeanour, to the authorities competent for enforcement of misdemeanour sanctions or to the competent authorities participating in the punishment deletion procedure.

Information from the register of sanctions for a punished person can be provided at a justified request of the authorities referred to in previous paragraph of this Article if some specified legal consequences of the punishment or safeguard measure are still present or where there is justified interest for that based on the law.

Information on their punishments for misdemeanours must be provided to citizens and to legal persons at their request.

Citizens and legal persons cannot be asked to submit evidence of not being punished for misdemeanours unless where that is specifically envisaged so by the law.

Proof of payment of fee for the service requested shall also be enclosed to the request for issuing information from the register of sanctions. Minister in charge of judiciary shall prescribe the fees for issuing of information from the register of sanctions by means of a separate act.

2. Register of Unpaid Fines and Other Monetary Amounts

Article 331

For the purpose of efficient collection of fines imposed, compensation of costs and collection of other monetary amounts adjudicated based on damage compensation, property rights related request or confiscation of proceeds, a consolidated register of unpaid fines and other monetary amounts (hereinafter: the register of fines) shall be maintained.

The register of fines shall be a centralized electronic database in which information entered in the register shall be kept.

Any unpaid fines, costs of proceedings and other monetary amounts imposed by means of a final and enforceable court decision or my means of a final and enforceable misdemeanour notice shall be entered in the register of fines.

Provisions on the register of sanctions referred to in Articles 325 and 326 of this Law shall apply *mutatis mutandis* on keeping and handling of information in the register of fines.

Information that is to be Entered in the Register of Fines

Article 332

The following information shall be entered in the register of fines:

1) name and surname and Unique Personal Identification Number of the punished physical person, entrepreneur and/or of the responsible person with the legal person, i.e. the number of the travel document of a foreign physical person which failed to pay the fine or other monetary amounts imposed or which failed to compensate the costs of the proceedings imposed in their entirety within the time limit prescribed;

2) for the punished legal person, the name and seat, TIN and company registration number and the name and seat of the sole proprietorship business for the entrepreneur;

3) the enforceable, i.e. final decision whereby the monetary liability is imposed;

4) the misdemeanour court that has passed the decision, i.e. the authority that has issued the misdemeanour notice;

5) the amount owed and the basis for such debt;

6) due date of the payment obligation;

7) the misdemeanour court that performed the entry;

8) date of entry.

The outstanding fines and other monetary amounts imposed shall be recorded and maintained in the register of fines.

Entry of Information in the Register of Fines

Article 333

Entry of information referred to in Article 332 of this Law shall be performed by the court that passed the decision on which the entry is based, i.e. by the first instance court in the territory of which the misdemeanour notice, based on which the entry is made, is issued.

Entry of information in the register of fines shall be performed upon expiry of the time limit for voluntary payment, which shall be ensured *ex officio* by the court of relevant jurisdiction.

Provisions of Article 328, paragraph 3 of this Law shall apply *mutatis mutandis* to entry of information in the register of fines.

Deletion and Change of Information in Register of Fines

Article 334

If the person punished pays the amount owed in a part thereof or completely or the fine imposed is completely or partially replaced by a prison sentence enforced or by a community service, the court of relevant jurisdiction shall be obliged to immediately perform deletion of information and/or to enter the relevant change in the register of fines.

If prior to the enforcement procedure, the person punished pays the fine imposed by means of a misdemeanour notice voluntarily, in a part thereof or completely, the person issuing the notice shall be obliged to immediately notify the court of relevant jurisdiction thereof.

The fine and costs of the proceedings, information about the person punished as well as any other information relating thereto shall be deleted from the register of fines immediately after the person punished has paid the total amount owed and/or upon the expiry of the time period of four years from the date when the misdemeanour notice or conviction became final.

Access to Information in the Register and Issuing of Excerpts and Information from the Register

Article 335

Information from the register of fines shall be available to all misdemeanour courts, as well as to the authorities competent for conducting the proceedings referred to in Article 336 of this Law.

Provisions of Articles 326 and 330 of this Law shall apply *mutatis mutandis* to issuing of information from the register of fines.

An application for issuing information from the register of fines can be submitted to any misdemeanour court.

Access to information from the register of fines shall be approved and regulated in more detail by the minister in charge of judiciary, by means of a separate act.

Consequences of Entry into Register of Fines

Article 336

Ceased to be valid (see Decision of the Constitutional Court - 98/2016-98).

Chapter XXXVII

STANDARDS OF THE CONFLICT OF LAW AND TRANSFER OF CASES FOR ENFORCEMENT IN RELATIONS AMONG COURTS IN THE REPUBLIC OF SERBIA

Transfer of Enforcement

Article 337

The court that pronounced the prison sentence, a correctional measure or a safeguard measure may request that such sentence and/or measure be enforced in the territory of another court in the Republic of Serbia, in which the domicile and/or residence of the person against which the enforcement is to be conducted is located.

Obligations of the Court Following the Transfer of Enforcement

Article 338

The court that conducted enforcement shall pass the resolution on costs incurred in conducting of such enforcement.

For the purpose of settling the costs of enforcement, the court that conducted the enforcement shall keep the required sum from the amount collected.

Chapter XXXVIII

TRANSITIONAL AND FINAL PROVISIONS

Article 339

Regulations on misdemeanours that are not in compliance with this Law shall be harmonized until the initial date of application of this Law.

Article 340

The misdemeanour proceedings initiated by the initial date of application of this Law shall be completed in compliance with the provisions of the Law on Misdemeanours (Službeni glasnik RS, Nos. 101/05, 116/08 and 111/09).

The second instance misdemeanour court shall be competent to act in the proceedings referred to in paragraph 1 of this Article from the initial date of application of this Law, for adjudicating on the appeals against the resolutions handed down by the administration authorities.

The cases of misdemeanour courts in which no decisions on appeals against decisions of administrative bodies have been handed down by the initial date of application of this Law shall be transferred to the jurisdiction of the second instance misdemeanour courts.

Article 341

By-laws prescribed by this Law shall be passed within six months from the date of entry into force of this Law.

Article 342

On the initial date of application of this Law, the Law on Misdemeanours (Službeni glasnik RS, Nos. 101/05, 116/08 and 111/09) shall cease to be valid.

Article 343

This Law shall enter into force on the eighth day from the date of its publication in Službeni glasnik Republike Srbije, and it shall apply from 1 March 2014.

***

ARTICLES NOT INCLUDED IN THE FINAL TEXT OF THE
LAW ON AMENDMENTS AND ADDITIONS TO THE LAW ON MISDEMEANOURS

(Službeni glasnik RS, No. 13/16)

Article 21

Regulations on misdemeanours that are not in accordance with this Law shall be harmonized within one year from entry into force of this Law.

Article 22

This Law shall enter into force on the eighth day from the date of publication in the Službeni glasnik Republike Srbije.

***

ARTICLES NOT INCLUDED IN THE FINAL TEXT OF THE
LAW ON ADDITIONS TO THE LAW ON MISDEMEANOURS

(Službeni glasnik RS, No. 91/19)

Article 3

This Law shall enter into force on 1 July 2020.