

Act No. 87/1950 Coll. on criminal proceedings by court (Criminal Procedure Code)

CHAPTER ONE. General provisions

Section One. Basic provisions

Section 1 Purpose of the Act

- (1) The purpose of this Act is to regulate proceedings in the field of criminal justice so that crimes are properly detected and their perpetrators punished according to the law. Providing help to achieve this goal is the right and duty of every citizen.
- (2) Proceedings shall be held in such a way as to educate citizens to be vigilant against enemies of the working people and other disruptors of their development efforts, and to fulfil their civic duties.

[keywords: criminal justice, vigilance against enemies of working people]

Section 2 Roles of the prosecutor and the court

- (1) The role of the prosecutor and the court in criminal proceedings is to ensure that laws of the People's Democratic Republic are followed and applied in accordance with the interests of the working people. The role of the military prosecutor and the military court is also to protect the combat capabilities of armed forces and the discipline and order established therein, to strengthen the commander's authority and thereby contribute to ensuring the defence of the homeland.
- (2) The task of the prosecutor in criminal proceedings is mainly to carry out preliminary proceedings, to supervise fair punishment of perpetrators, and to ensure that the sentences imposed on them are carried out.
- (3) The task of the court in criminal proceedings is mainly to decide fairly on crimes; this task is equally performed by lay judges as well as professional judges.

[keywords: prosecutor, military prosecutor]

Section 3 Cooperation of authorities and public bodies

Authorities and public bodies are obliged to provide assistance to prosecutors and courts in performance of their tasks, in particular to comply with their requests as quickly as possible and to report crimes to prosecutors without delay.

[keywords: cooperation of authorities and public bodies]

Decisions

Section 24 Voting in senate

- (1) Beside judges, only the recorder may be present during voting and preceding

meeting. Special minutes shall be drawn on the voting.

(2) Lay judges shall take precedence in voting before professional judges. Junior judges vote before seniors; in military courts, judges of lower rank vote before judges of higher rank, and within the same rank, younger ones vote before older ones. Chairman of the senate is the last one to cast their vote.

(3) Passing a decision requires majority of votes. If a majority is not reached even after separating questions, the votes least favourable to the accused person are added to the following more favourable votes until a majority is reached. In the case of dispute regarding which votes are more favourable to the accused person, decision will be passed by voting.

(4) All members of the senate must vote, even if they were outvoted on any of previous questions. However, while voting on punishment, those who voted for acquittal may abstain; their votes are subsequently added to the vote most favourable to the accused person.

[keywords: judgment voting]

CHAPTER TWO. Preparatory proceedings

Section One. Preparatory proceedings procedure

Section 76 Search

(1) Searches regarding crimes are conducted by national security authorities; for that purpose, they can summon and interrogate anyone from whom they can expect clarification of facts relevant to the detection of a crime. If necessary, they also conduct searches in cooperation with other public authorities.

(2) Searches regarding crimes of the armed forces members in active service may also be carried out by their superior or an authority authorized by them; at the same time, they have the same rights and the same obligations as the national security authorities towards the armed forces member in active service, to which they belong. If the superior cannot intervene in time, such rights and obligations pertain to the local commander closest to the place of the crime or residence of the accused person.

[keywords: national security authorities, interrogation]

Investigation

Section 77 If the prosecutor learns about a crime, they shall conduct an investigation, unless the matter is already sufficiently explained.

[keywords: prosecutor, investigation]

Section 78 Within the framework of investigation, the prosecutor shall do everything necessary to ensure successful execution of criminal proceedings; primarily for that

purpose they shall

- a) collect evidence on facts important for court's decision, whether they testify against the accused person or in their favour, in particular the prosecutor interviews the accused person and witnesses;
- b) ensure that the accused person can be brought before the court and that the criminal proceedings are not delayed, in particular the prosecutor decides on custody;
- c) ensure the execution of any punishment and protective measures applied;
- d) ensure the satisfaction of claims of victim arising from the crime.

[keywords: evidence]

Section 84

- (1) The prosecutor usually conducts the investigation personally; they are entitled to request explanations and reports from every authority and public body.
- (2) During the investigation, the prosecutor is entitled to order the authorities called for the search to carry out individual investigative tasks. These authorities are also supposed to carry out other investigative tasks, the need for which arises from action they were asked to perform.

[keywords: prosecutor]

Section 85 Indictment

- (1) If the suspicion of a crime against the accused person is sufficiently justified, the prosecutor shall usually file an indictment against such person, in the court to which the prosecutor is assigned.

[keywords: indictment]

CHAPTER THREE. The main hearing

Ordering the main hearing

- Section 140** (1) The day of the main hearing shall be established by the chairman of the senate in such a way that the accused person has at least three days to prepare after the delivery of the summons and indictment.
- (2) If the prosecutor extends the indictment to include a new act or otherwise changes it before the start of the main hearing, the chairman of the senate will order its delivery to the accused person so that they have at least three days to prepare from the delivery of the amended indictment; at the same time, the chairman of the senate shall invite the accused person to notify the court of the evidence that the accused person requests to be presented at the main hearing before the main hearing.

[keywords: main hearing]

Accessibility of the main hearing by general public

Section 143 (1) The main hearing is public.

(2) The public may be excluded for the entire main hearing or for part of it, only if the public hearing of the matter would endanger state, economic, or official secrets, or the peaceful course of proceedings, or public moral. The resolution to exclude the public will be announced publicly. However, in such a case, the court may, for important reasons, allow the presence of individual persons.

(3) Even if the public was excluded, the judgment will be announced publicly.

[keywords: main hearing]

Section 144 (1) If the public has been excluded, the accused person has the right to choose two confidants who can be present to the main hearing. If there are several accused persons, each of them has the right to choose two confidants. Altogether, however, the accused persons do not have the right to choose more than six confidants; if more confidants were chosen and the defendants fail to reach agreement regarding the choice, the choice of confidants pertains to the court.

(2) If the public was excluded due to jeopardy to state, economic, or official secrets, the accused person may only choose such persons as confidants against whom the court or the prosecutor have no objections.

[keywords: exclusion of publicity]

Section 145 Attendance at the main hearing

(1) The main hearing is held under the constant presence of all members of the senate, the prosecutor, and the record keeper.

(2) Unless proceedings against the fugitive are held, the main hearing cannot be held in the absence of the accused person,

a) who has not yet been heard about the crime being subject of the indictment, not even by the authority called to make the search;

b) to whom the indictment or summons for the main hearing has not been duly served; or

c) who is accused of a crime for which the law establishes the capital punishment, life imprisonment, or temporary imprisonment with the upper limit exceeding five years.

[keywords: main hearing]

Section 146 Mandatory defence

The accused person must have a defence lawyer at the main hearing ([Section 45](#)),

a) if the proceedings are held on a crime for which the law establishes the capital punishment, life imprisonment, or temporary imprisonment with the upper limit exceeding five years; or

b) if the court deems it necessary, especially if it has doubts as to whether the accused

person is capable of defending themselves.

[keywords: mandatory defence]

Section 149 Presentation of indictment

(1) After opening of the main hearing, the prosecutor will present the indictment.

(2) At the main hearing, before the court leaves for the final consultation, the prosecutor may extend the indictment to a new act or change it in some other way.

[keywords: main hearing, indictment]

Presentation of evidences

Section 150 After the indictment is presented, the accused person is interrogated and other evidences are presented.

[keywords: interrogation]

Section 151 The prosecutor, as well as the accused person, the victim, and the participating person, their defence lawyers and proxies, and if they lack legal capacity, also their legal representatives, may ask questions to the interrogated persons; The chairman of the senate shall not concede questions that do not contribute to clarification of the matter.

[keywords: questions during interrogation]

Section 152 Documents, the content of which is important for assessment of the case, in particular the complaint and the opinion of the authority or public institution or body, must be read at the main hearing.

[keywords: reading documents]

Section 153 If the prosecutor and the accused person agree, instead of reading the minutes and other documents, the essential content of what should be read may be presented.

[keywords: summarizing documents]

Section 154 (1) The accused person, who has not yet been heard at the main trial, may not be present at the interrogation of the other accused persons; the chairman of the senate may order that each accused person be heard in the absence of other accused persons. In such case, the chairman of the senate shall inform the accused person after their interrogation of the essential content of the hearing held in their absence, so that they can comment on it.

(2) After each individual piece of evidence has been presented, the accused person must be called upon to comment on it.

(3) The accused may also speak to their defence lawyer at the main hearing, but they may not consult regarding answer to question asked.

(4) If the accused person withdraws from the main hearing without consent of the chairman of the senate, they may be brought before the court.

[keywords: sequence of interrogation]

Section 155 If the main hearing is held in absence of the accused person, or if the accused person refuses to testify, the minutes of their earlier testimony and their suggestions contained in the file will be read.

[keywords: absence of accused]

Section 156 (1) A witness who has not yet been heard at the main hearing must not be present during the presentation of evidence.

(2) If there is a concern that the witness would not tell the truth in the presence of the accused person, the chairman of the senate may order the accused person to leave the courtroom for the interrogation. After return of the accused person to the courtroom, the chairman of the senate shall inform them of the essential content of the hearing held in their absence, so that the accused person can comment on it in the presence of the witness heard.

(3) The chairman of the senate may order the witness who has already been heard to remain in the courtroom or in a room designated for them for the time established by the chairman of the senate.

(4) If the witness withdraws from the main hearing without consent of the chairman of the senate, they may be brought before the court.

[keywords: main hearing, sequence of interrogation]

Section 157 (1) Instead of interrogating a witness within the main hearing, the minutes of the witness's hearing held outside the main hearing may be read,

a) if both the prosecutor and the accused person agree so;

b) if the witness refuses to testify without justification; or

c) if the witness died, became mentally ill, if their whereabouts are unknown, or if their presence due to old age, illness, or distance from the place of residence or for other reasons were connected with disproportionate difficulties or costs.

(2) Instead of interrogating an expert within the main hearing, the minutes of the expert's interrogation held outside the main hearing may be read,

a) if both the prosecutor and the accused person agree so; or

b) if the presence of an expert would be connected with disproportionate difficulties or costs.

[keywords: reading the witness' testimony]

Section 158 Final pleas

(1) After presenting evidences, the chairman of the senate shall invite the aggrieved party and the participating person to submit their proposals. If the aggrieved or participating person are not present or represented, their proposals shall be read from the files.

(2) Subsequently, the chairman of the senate gives the floor for final pleas, first to the prosecutor and then to the defence lawyer and the accused person, and if the accused person lacks legal capacity, also to their legal representative. If there are several accused persons, the chairman of the senate shall establish order of their pleas. If the prosecutor takes the floor again, the defence lawyer, the accused person, and the legal representative shall have the last word.

(3) In their final pleas, the prosecutor shall evaluate results of the main hearing, in particular severity of danger caused by the crime for society and the possibility of correction of the accused person; however, the prosecutor is not entitled to propose specific scope of punishment.

[keywords: final pleas]

Section 159 End of the main hearing

(1) After the final pleas, the court shall retreat for the final consultation.

(2) The court's decision including substantial reasons will be announced by the chairman of the senate.

[keywords: final consultation]

Decision at the main hearing

Section 160 Basis for decision

(1) The court may only decide on the act being subject of the indictment, however, it is not bound by legal assessment of the act in the indictment.

(2) While making a decision at the main hearing, the court can only consider evidences presented at the main hearing.

[keywords: subject of indictment, legal assessment]

Judgment

Section 161 The court will decide whether the accused person is found guilty or acquitted of charges in form of a judgment.

[keywords: sentence]

CHAPTER EIGHT. Execution of the decision

Execution of the capital punishment

Section 268 (1) If there are no obstacles to the execution of the capital punishment, the chairman of the senate or another judge authorized by them will notify the convicted person that the capital punishment will be carried out.

(2) The prosecutor will allow the convicted person's next of kin, a defence lawyer, a clergyman and, if possible, other persons with whom the convicted person wishes to speak, to visit them.

(3) The capital punishment must not be carried out on a pregnant woman.

[keywords: death penalty]

Section 269 (1) The capital punishment shall be carried out in the presence of the president of the senate, the prosecutor, the record keeper, the prison commander, the physician to confirm the death, and, if the convicted person requests it, also a clergyman. Potential presence of any other persons at the execution of the capital punishment shall be established by a special regulation.

(2) In the case of increased threat to the homeland, the prosecutor will establish whether the capital punishment shall be carried out by hanging or by shooting.

(3) Before the execution, the chairman of the senate shall read the judgment, as far as it concerns the convicted person, except of the reasoning part.

(4) The record of the execution of the capital punishment shall also contain data on exact moment the death occurred, based on physician's findings.

[keywords: death penalty]

Section 270 The capital punishment pronounced in a court-martial is usually carried out publicly, three to twelve hours after the publishing of the judgment.

[keywords: death penalty, military court]