

Act No. 64/1956 Coll. on criminal proceedings by court (Criminal Procedure Code)

Part One. Common provisions. Chapter One. General provisions

Section 1 Purpose of the Act

- (1) The purpose of this Act is to regulate proceedings on crimes so that they are properly detected and their perpetrators fairly punished according to the law.
- (2) All law enforcement bodies must solve crimes as quickly as possible, while fully observing constitutionally guaranteed civil liberties and in such a way that the proceedings have educational effect on the person against whom the criminal proceedings are held and so that it educates citizens to be vigilant against the enemies of the working people and other disturbers of their development efforts, as well as to fulfil their civic duties.
- (3) Helping to achieve this purpose is the right and, according to the provisions of this Act, also the duty of every citizen.

[keywords: criminal proceedings]

Section 2 Basic principles of criminal proceedings

- (1) The prosecutor is obliged to prosecute all crimes, as long as they learn about them; exceptions are only permitted by law.
- (2) Criminal proceedings before the courts are possible only on the basis of an indictment filed by the prosecutor.
- (3) Unless otherwise stipulated by this Act, law enforcement bodies act *ex officio*.
- (4) Within the criminal proceedings the courts usually decide in senates with the participation of lay judges; while making decisions, lay judges are equal to judges. The chairman of the senate decides as the sole judge, only in cases expressly established by law.
- (5) Judges and lay judges make decisions independently and are only bound by legal order.
- (6) As long as guilt has not been pronounced by a final judgment of the court, the person against whom criminal proceedings are being held cannot be regarded as guilty.
- (7) Law enforcement bodies conduct and collect evidence *ex officio* or at the request of parties in such a way that all circumstances relevant to the decision in the matter are properly clarified; while doing so, they are obliged to consider both circumstances against the accused person as well as circumstances in their favour with the same care. The confession of the accused person does not release the law enforcement bodies from the obligation to examine and verify all circumstances of the case with all

available evidence.

(8) The court evaluates the evidence according to judges' inner beliefs, based on a careful consideration of all the circumstances of the case individually and in aggregate.

(9) Evidence is provided by statements of witnesses, experts, and accused person by the court in form of hearing said persons; exceptions are only permitted by law.

(10) While making a decision at the main and appeal hearings, as well as at public and private sessions, the court may consider only the evidence that was presented during such hearing.

(11) At the main and appeal hearings and in public sessions, the public may be excluded only in cases explicitly established by this Act.

(12) The person against whom criminal proceedings are held must be informed at every stage of the proceedings about their procedural rights allowing them to provide for full defence and so that they can also choose a defence lawyer; all law enforcement bodies are obliged to enable the enforcement of their rights.

(13) Everyone has the right to use their mother tongue in court.

[keywords: prosecutor, evidence, language of proceedings]

Section 3 Cooperation of the State and other authorities

(1) State bodies, other authorities, insofar as they perform tasks of State administration, as well as organizations of socialist sector, are obliged to assist law enforcement bodies in fulfilling their tasks, in particular to comply with their requests as quickly as possible and to report crimes to the prosecutor without delay.

(2) The obligation to preserve state and economic secrets, or the obligation of confidentiality explicitly imposed or recognized by the State remain untouched by the provision of paragraph 1.

(3) Law enforcement bodies are also obliged to help each other in fulfilling tasks arising from this Act.

[keywords: reporting crimes]

Chapter Two. Subjects to the proceedings

Part One Domain and jurisdiction of courts

Section 8 Domain of courts

Courts shall act and decide on crimes and offenses for which the prosecutor filed an indictment by the court.

[keywords: indictment]

Chapter Three. Procedural acts

Section 48 General provision

While carrying out a procedural act, persons involved in the act must be treated as required by the meaning and educational purpose of the criminal proceedings, respect their personality and their rights guaranteed by the Constitution, and meet their requests as far as possible.

[keywords: personal rights]

Chapter Five. Presentation of evidence

Section 99 General provision

Anything that can contribute to clarifying the matter can be used as evidence, especially testimonies of the accused persons and witnesses, expert opinions, things and documents important for criminal proceedings, and search.

[keywords: evidence, testimony]

Interrogation of the accused person

Section 101 (1) If there are several accused persons, they shall be heard separately; at the same time, a measure must be taken so that those who are accused in the same matter cannot conspire with each other.

(2) Before the first interrogation of the accused person, the interrogator is obliged to establish identity, personal, family, property, and income conditions and previous convictions of the accused person, explain them the basis of the accusation and advise them regarding their rights; the content of the advice shall be included into the record. Subsequently, the interrogator invites the accused person to comment on the accusation in detail, in particular to describe in detail the facts that are the subject of the accusation, to state the circumstances that weaken or refute the accusation, and to offer evidence in respective regard. The statement of the accused persons shall be recorded in the record in form of direct speech and, if possible, literally.

(3) Questions for the accused person to supplement the testimony or to eliminate incompleteness, ambiguity, and contradictions, and the answers provided by them shall be noted into the record of the interrogation, as necessary. The interrogator must ask questions clearly and comprehensibly, without pretending deceptive and false circumstances; they must not contain instructions on how to answer them.

(4) The accused person may be allowed to consult written notes before giving an answer, which notes they must, however, provide to the interrogator for perusal if the interrogator so requests; this circumstance must be noted into the record.

(5) The accused person may also be allowed, if they so requests, to write their statement by hand.

[keywords: interrogation]

Section 102 (1) The interrogation of the accused person shall be held in such a way as to provide as complete and clear a picture as possible of facts relevant to the criminal proceedings; the accused person must not be coerced in any way to give a statement or make a confession, and their personality must be respected during the interrogation.

(2) The confession of the accused person does not release the interrogator from the obligation to examine and verify all circumstances of the case with all available evidence.

(3) If the aim of the interrogation is to establish identity of a person or a thing, the interrogator will ask the accused person to describe them/it; only afterwards a person or a thing shall be presented to the accused person, and as a rule amongst several other persons or several other things of the same kind.

(4) If the authenticity of the accused person's handwriting needs to be established, the interrogator may ask them to write the necessary number of words; however, the accused person must not be forced to do so in any way. However, the accused person shall always be obliged to tolerate actions necessary to establish their identity.

[keywords: interrogation, truth, handwriting]

Section 103 If important circumstances in the testimony of the accused person fail to conform with the testimony of a witness or another accused person and the discrepancy cannot be explained otherwise, the interrogator may bring the accused person face to face with such other persons.

[keywords: testimony, confrontation]

Section 104 Except for a record of the main or appeal hearing or of a public session, the record must be presented to the accused person for reading after the end of the interrogation, or, if they so request, read to them; the accused person has the right to request supplementing or correcting the record to align them with their statement. The accused person shall be advised of this right.

[keywords: record of interrogation]

Chapter Two. Witnesses

Section 105 Duty to testify

Everyone is obliged to appear based on summons and testify as a witness about what they know about the crime and the perpetrator or about the circumstances important for the criminal proceedings.

[keywords: duty to testify]

Chapter six. Decisions

Section 133 Method of decision making

- (1) Unless the law expressly stipulates that the court decides by a judgment, it shall decide by a resolution.
- (2) Other law enforcement bodies decide by a resolution, unless the law provides otherwise.

[keywords: resolution]

Part Two. Preparatory proceedings

Chapter Nine. Investigation

Section One. Investigative bodies

Section 172 (1) The investigation is carried out by investigators of the prosecutor's office and investigators of the Ministry of the Interior.

(2) For the purpose of the most objective examination possible, investigators of the prosecutor's office shall carry out investigations or individual investigative acts, especially interrogation of the accused person, even in matters investigated by other investigative bodies.

(3) Supervision over the investigation pertains to the prosecutor. While doing so the prosecutor is entitled

- a) to give binding instructions to investigative bodies for the investigation of crimes, as well as for the search for perpetrators with unknown whereabouts;
- b) to request criminal files, documents, materials, and reports on committed crimes from investigative bodies for the purpose of verification;
- c) to participate in performance of investigative acts and personally conduct investigation of any matter; while doing so, the prosecutor shall proceed according to the provisions of the section two of this chapter, and a complaint against prosecutor's decisions is admissible as well as against decisions of investigative bodies;
- d) to return the case to the investigative body with prosecutor's instructions for supplementing the investigation;
- e) to cancel illegal and unjustified decisions and measures of investigative bodies;
- f) to withdraw any matter from a certain investigative body and transfer it to another investigative body, if it is necessary to ensure the most complete and objective investigation of the matter;
- g) to remove the prosecutor's office investigator from further conducting the investigation and take measures to remove another investigative body from further conducting the investigation if they have committed violations of the law during the investigation.

(4) The investigators of the Ministry of the Interior carry out investigations both in

matters that pertain to jurisdiction of the regional court in the first instance as well as in other matters.

(5) Investigations are also carried out by armed forces commanders or by bodies authorized by them, namely on the crimes committed by persons subject to their command authority, unless the law provides punishment for these crimes more severe than imprisonment with the upper limit of which does not exceed one year.

[keywords: investigator, prosecutor's office]

Section 173 Only the prosecutor is authorized to perform the following acts:

- a) filing indictment, stop or suspend criminal prosecution, and transfer or postpone the matter;
- b) proposing issuance of a warrant of arrest, taking into custody, and releasing from custody;
- c) ordering examination of mental state of the accused person in a public health institution or in a special observation department of a detention institution;
- d) appointing a defence attorney;
- e) allowing restart of a deadline;
- f) ordering seizure of the accused person's property;
- g) establishing means and things excluded from the seizure of the accused person's property;
- h) cancelling seizure of the accused person's property;
- i) securing the aggrieved party's right to compensation for damages, and limiting or cancelling such security;
- j) deciding on return or sale of thing taken into custody;
- k) granting consent to bury the corpse in cases where an autopsy was ordered according to *Section 129*, and ordering exhumation of the corpse;
- l) proposing requesting the accused person from abroad;
- m) conducting preliminary investigation in extradition proceedings.

[keywords: acts of prosecutor]

Chapter Two. The procedure of investigation

Commencement of investigation

Section 176 An investigation will be started if facts are found indicating crime has been committed.

[keywords: investigation]

Section 177 An investigation is started by the investigative body in form of a resolution; if the investigation was not started based on prosecutor's order, a copy of

such resolution shall be delivered to the prosecutor within 24 hours, at the latest.

[keywords: investigation, resolution]

Bringing the charges

Section 178 (1) As soon as there is a sufficiently justified conclusion on the basis of established facts that a certain person has committed a crime, the investigative body shall issue a resolution on prosecution of such person in role of accused person.

(2) The accused person shall be notified of such resolution within three days, however, at the beginning of their first interrogation, at the latest. A copy of this resolution shall be served to the prosecutor within 24 hours, at the latest.

[keywords: charges]

Section 182 Investigation procedure

(1) Investigations are carried out by investigative bodies personally. While carrying out investigative acts, they shall proceed according to the provisions of chapters one to seven.

(2) Investigative bodies shall proceed on their own initiative in order to investigate all facts necessary for assessment of the case as quickly and as completely as possible, in particular, they shall collect evidence regardless of whether they testify in favour of or against the accused person.

(3) The confession of the accused person does not release the investigative bodies from the obligation to examine and verify all circumstances of the case with all available evidence. The accused person must not be forced to testify or to confess in any way.

[keywords: investigative bodies]

End of investigation

Section 183 If the investigating body considers the investigation to be over, it shall inform the accused person of investigation results, present them the investigation files for review, and advise them regarding their rights to propose an amendment of the investigation. If the accused person requires presentation of new evidence or amending of evidence already presented, the investigating body shall present them accordingly; however, if the investigative body does not consider the completion of the investigation necessary based on decision of the prosecutor or the court, it shall reject the request in form of a reasoned resolution.

[keywords: conclusion of investigation]

Chapter Three. Prosecutor's decision in preliminary proceedings

Indictment

Section 189 If results of the preliminary proceedings sufficiently justify bringing the accused person before the court, the prosecutor shall file an indictment.

[keywords: indictment]

Section 190 An indictment may be filed only for the crime for which the charges were raised; otherwise, the prosecutor shall return the matter to the investigative body for a new indictment and for a new conclusion of the investigation, or shall perform these actions themselves.

[keywords: charges, indictment]

Part Three. Proceedings at the court

Chapter Ten. Preliminary review of charges

Section 196 Matters to address within preliminary session

(1) The charges brought shall be preliminarily addressed in court, if

- a) the act of the accused person is marked in it as a crime for which the law provides for the capital punishment or imprisonment with the upper limit exceeding two years;
- b) the accused person is in custody;
- c) it refers to the proceedings against juvenile; or
- d) it refers to the proceedings against the fugitive.

[keywords: preliminary session]

Section 198 Method of review

The preliminary session regarding charges brought takes place in a closed session. The chairman of the senate will submit a report on the matter focusing on issues to be addressed (Section 197).

(2) Before the session, the chairman of the senate may interrogate the accused person and obtain necessary explanations to facilitate the decision.

(3) Evidence regarding the subject matter of charges is not presented in this phase of the proceedings.

[keywords: preliminary session]

Effects of accepting the charges

Section 207 As soon as charges are accepted by the court, the court decides independently on all issues related to further proceedings and it is obliged, *ex officio*, without waiting for further requests from any party, to make all decisions and take all measures necessary to process the charges, to end the case, and to enforce the court's decision.

[keywords: acceptance of charges]

Chapter Eleven. The main hearing

Section One. Preparation of the main hearing

Section 210 Ensuring successful process of the main hearing

(1) The main hearing will be organized by the chairman of the senate in such a way that it can be completed in a single session.

(2) If even before the main hearing, motions are made to present additional evidence, the chairman of the senate shall take all necessary measures so that the evidence considered admissible is at hand and can be presented at the main hearing.

(3) If the chairman of the senate deems it necessary for the preparation of the main hearing, they may interrogate the accused person, in particular as to whether they want to make new statements or submit new motions.

[keywords: main hearing]

Ordering the main hearing

Section 212 (1) The day of the main hearing shall be established by the chairman of the senate so that the accused person has at least a five days for preparation from serving of summons, and the defence lawyer as of the notification moment, and that this time limit is also preserved, if possible, for other persons summoned to the main hearing or being informed of it (Section 213). The period for preparation can be shortened for the accused person and the defence lawyer only with their consent, and shall be not shorter than three days.

[keywords: date of main hearing]

Chapter Two. Accessibility of the main hearing by general public

Section 214 (1) The main hearing is held as public.

(2) Access to it can only be denied to minors, armed persons, unless the duty to carry

a weapon is imposed on them by service regulations, and persons appeared in a state arousing outrage. Necessary measures taken against overcrowding the hearing room are not held breach to public nature of the main hearing.

[keywords: publicity of main hearing]

Section 215 (1) The public may be excluded only if the public review of the case at the main hearing would endanger state, economic, or official secrets, undisturbed course of proceedings, or public morals. The public can also be excluded only for a certain part of the main hearing.

(2) The judgment shall always be announced in public.

(3) The court will decide on exclusion of the public after interrogating the accused person by a publicly announced resolution.

[keywords: no publicity of main hearing]

Chapter Three. Opening of the main hearing

Section 217 Attendance at the main hearing

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

(2) The presence of the prosecutor at the main hearing is obligatory

a) in matters of custody;

b) in proceedings against juvenile;

c) in proceedings against fugitive;

d) if so established by the court during the preliminary session for reviewing the charges.

(3) In cases with mandatory presence of the prosecutor at the main hearing, the accused person must also have a defence lawyer, unless they explicitly declare that they wish no defence lawyer. However, the accused person must always have a defence lawyer if the proceedings regard a crime for which the law provides for the capital punishment or a prison sentence with the upper limit exceeding five years, or if the court deems it necessary, in particular if there are doubts about ability of the accused person to properly defend themselves due to their physical or mental issues.

[keywords: mandatory presence of prosecutor]

Section Five. Presentation of evidence Interrogation of the person charged

Section 223 (1) After reading the charges, the chairman of the senate asks the person charged, if they understood the charges. If needed, the chairman of the senate shall advise the person charged of the essence of charges in the way best comprehensible

way for the person charged.

(2) The person charged must be given the opportunity to coherently describe the facts and present their statements with regard to claims of charges. Only then shall the chairman of the senate ask the person charged questions to cover gaps and explain contradictions in their testimony.

(3) The record of the person charged previous testimony may be read only when the hearing is held in absence of the person charged, when the person charged refuses to testify, or when significant discrepancies appear between their previous testimony and facts provided by them at the main hearing. Such contradictions shall be raised to attention of the person charged and they shall be asked to provide explanations as to the reasons.

[keywords: interrogation, testimony]

Part Six. End of the main hearing

Final pleas

Section 233 (1) If there are no further evidence proposed or if it has been decided that further evidence is not admissible, the chairman of the senate declares the presentation of evidence to be over and gives the floor for final pleas.

(2) The prosecutor shall first summarize and evaluate results of the main hearing and comment on the danger of the act for society and on the possibilities of the correction of person charged. They may also mention the issue of punishment, however shall refrain from proposing its specific scope.

(3) After the prosecutor's plea, the aggrieved person, or their representative, shall justify their proposals.

(4) Subsequently, the chairman of the senate gives the floor to the defence lawyer and to the person charged, and if the person charged lacks legal capacity, also to their legal representative. If there are several persons charged, the chairman of the senate shall establish their order. After that the chairman of the senate shall give floor to the participant and their proxy.

(5) If the prosecutor takes the floor again after the plea of the defence lawyer or the person charged, the defence lawyer and the person charged shall have the right to respond.

(6) The chairman of the senate can only interrupt the final pleas if they seem to deviate from the scope of the matter being subject to the proceedings.

[keywords: final pleas]

Section 234 After final pleas and before leaving for the final consultation, the chairman of the senate shall grant the person charged the right of the last word. During this speech, neither the court nor anyone else may ask the person charged any questions.

[keywords: final pleas]

Chapter Eighteen. Execution proceedings

Part One Execution of the capital punishment

Section 335 (1) If the judgment imposing the capital punishment has become final, the chairman of the senate of the court, which decided on the matter in the first instance, shall immediately submit the files to the Supreme Court.

(2) In the case referred to in paragraph 1, the Supreme Court shall examine the legality of the judgment and the proceedings preceding it, and if it finds that there has been such a violation of the law that could affect the imposition of the capital punishment, it shall proceed as if a complaint for violation of the law had been filed; otherwise, the Supreme Court will submit the files to the Ministry of Justice.

[keywords: death penalty]

Section 336 The capital punishment may only be carried out if the Ministry of Justice informs the court that the sentence remained unchanged after review by the Supreme Court and that no plea for mercy has been made, or that the plea for mercy has been rejected.

[keywords: death penalty, mercy]

Section 337 (1) If there is no longer any obstacle to the execution of the capital punishment, the judge shall, immediately before the execution of the sentence, notify the condemned person that the sentence will be carried out, and shall read them the judgment except for the reasoning as well as decision on rejection of the plea for mercy, if submitted.

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

[keywords: death penalty]

Section 338 (1) During the execution of the capital punishment, the judge, the prosecutor, the detention institute commander, and the physician must be present.

(2) The judge present shall draft a record of the execution of the capital punishment, which shall also contain data on exact moment the death occurred, based on physician's findings. The record shall be signed by persons named in paragraph 1 above.

[keywords: death penalty]