

LAW ON MISDEMEANOR

General provisions

Article 1

This law shall regulate the conditions for the misdemeanors liability, rendering and enforcement of the misdemeanor decision and sanctions and the misdemeanor procedure.

Implementation of the regulations of the Criminal Code and the Law on Criminal Procedure

Article 2

- 1. For the misdemeanors responsibility, the announcing and the determination the misdemeanor sanctions, the provisions of the General part of the Criminal Code shall apply, unless this Law prescribes otherwise.**
- 2. For the misdemeanor procedure, the provisions of the Law on Criminal procedure shall apply, unless this Law prescribes otherwise.**

Part 1

SUBSTANTIVE PROVISIONS

Chapter 1

General provisions

Legality in determination the misdemeanors and in prescribing the misdemeanor sanctions

Article 3

Nobody shall be punished for misdemeanor for an act which, before it was done , has not been determined by a law as a misdemeanor and for which a sanction has not been prescribed by a law.

Misdemeanor sanctions

Article 4

Misdemeanor sanctions are the following: fine, misdemeanor warning , security measures and educational measures.

Head 2

MISDEMEANOR AND MISDEMEANOR LIABILITY

Article 5

The misdemeanor is an unlawful act determined by law with attributes are determined by Law.

Liability for misdemeanor

Article 6

- 1. For a misdemeanor a natural and a legal person shall be liable,**
- 2. A misdemeanor procedure shall not be conducted nor a penalty for misdemeanor will be prescribed against persons who have diplomatic immunity.**

Liability of a natural person

Article 7

- 1. A natural person shall be liable for negligence, if the law does is not determines that s/he shall be punished only if s/he committed the misdemeanor intentionally.**
- 2. A responsible person in the legal person, shall be punished for misdemeanor when the misdemeanor was committed by that person's activity or by his/her non performance of the supervision.**

Liability of a legal person

Article 8

- 1. The legal person shall be responsible for misdemeanor only if it is separately determined by the law in which the misdemeanor is proscribed.**
- 2. The legal person is responsible for a misdemeanor if it has been committed by an action or by not performing a supervision from authorized official or from the responsible person within the legal person or with an action or missing of performance of an act from another person who has been authorized to managed in the name of the legal person.**

Responsibility of foreign legal person

Article 9

A foreign legal person shall be punished for misdemeanor if the misdemeanor is

committed on the territory of the Republic of Macedonia and if he has his own representative office or another firm in the Republic of Macedonia.

Punishment for an attempt

Article 10

An attempt for committing a misdemeanor shall be punishable only when that is determined by law.

Head 3

1.MISDEMEANOR SANCTIONS

1.Penalties

Types of penalties

Article 11

1. For a misdemeanor committed by a physical person, a fine and a penalty of imprisonment shall be prescribed.
2. For a misdemeanor committed by a legal person, a fine shall be prescribed .
3. The penalty of imprisonment shall be prescribed as a main penalty.
4. The fine shall be prescribed as a main and as a second penalty.
5. If for the misdemeanor besides the imprisonment a fine is also prescribed , the fine shall be prescribed as a second penalty.
6. The fine shall be prescribed as a second penalty even if when it is not prescribed for that misdemeanor, if the misdemeanor was committed in self-interest.

Imprisonment

Article 12

1. The penalty of imprisonment shall not be prescribed to for less than five days nor longer than ninety days.
2. The penalty of imprisonment is proscribed only in full days.
3. The penalty of imprisonment can not be proscribed to a pregnant woman after she has fulfilled `three months of pregnancy nor to a mother until her child is one years old, and if the child is born dead-until three months expire after the delivery.

Fine penalty

Article 13

- (1) A fine for a physical person can not be proscribed in an amount less than 1.000 denars, nor bigger than 50.000 denars

(2) A fine for a legal person can not be prescribed in an amount smaller than 10.000 denars, nor bigger than 300.000 denars

1. For misdemeanors committed in self-interest, or for misdemeanors committed with a big property damage, a fine can be proscribed not bigger than the double amount of the fine set forth in paragraph 1 or in proportion with the height of the damage that has been done or the supplied interest, but not more than ten times bigger.

1. With the Law on misdemeanors for a police penalty a fine penalty can be proscribed in an amount which:

II. for physical persons can not be bigger than 10.000 denars,

III. for legal persons can not be bigger than 100.000 denars.

Deadline for paying the fine

Article 14

1. In the decision for the misdemeanor, the deadline for paying the fine shall be determined and can not be smaller than 15 days nor longer than 30 days from the day when the decision became final.

(2) In exceptional cases, the court, that has rendered that decision in a first instance for misdemeanor, can allow the fine be paid in installments. In that case, the Court shall determine the way of paying the money and the deadline which can not be longer than six months.

Substitution of a fine

Article 15

1. If the punished natural person, in determined deadline, does not pay the fine, the Court shall replace the fine with a penalty of imprisonment counting every 1.000 denars as a day in prison, so the imprisonment shall not last more than 60 days.

2. If the punished natural person, punished with a fine of more than 2.000 denars, pays only a part of the fine the rest of it will be replaced with imprisonment.

3. The imprisonment, with which the fine penalty has been replaced, will be terminated if the punished person pays the rest of the fine penalty after reckoning the part of the fine which has been replaced with imprisonment.

1. If, besides the fine an imprisonment has been prescribed, the imprisonment with which the fine is replaced and the prescribed penalty of imprisonment can not last more than 90 days.

Enforced payment of the fine

Article 16

If the punished legal person does not pay the fine in the determined deadline, the payment will be enforced, according to the Law.

2. Reckoning the penalty

Cumulation of misdemeanors

Article 17

If the person who has committed a misdemeanor with one or with more actions has committed more misdemeanors after which a verdict has not been reached and the case is in front of the same Court, first all the penalties for the misdemeanors will be fortified and then announced, and if the penalties are of a same kind, only one will be announced as a sum of all the others. The sum of all the penalties of imprisonment can not last more than 90 days, and the sum of all the fine penalties can not be bigger than the biggest one proscribed by this Law.

Prolonged misdemeanor

Article 18

1. To the person who has committed misdemeanor, by using the same relationship, same occasions or other circumstances, with a premeditation, will commit two or more time-connected actions which are of a same kind, the Court shall prescribe only one penalty within the limits of the penalty prescribed for that type of a misdemeanor.
2. To the person who has committed misdemeanor, who under the conditions from paragraph 1, will commit two or more time-connected actions of a same kind, the Court shall prescribe a penalty within the limits for the most aggravated type of misdemeanor.

Softening of the penalty

Article 19

The Court shall prescribe, to the convict for the misdemeanor, a penalty under the limit determined for that misdemeanor or shall use an easier penalty:

1. If the Law allows to punish the convict with an easier penalty.
2. If, while reckoning the penalty, it is fortified that the misdemeanor is not of a very difficult nature or that with it difficult damages have been done, and there are mitigating circumstances which refer to the fact that even with a less difficult penalty the aim of the punishing will be accomplished.

Limits of softening the penalty

Article 20

When there are conditions for softening the penalty from article 19, the Court can soften the proscribed penalty on one of the following ways:

1. A penalty shall be prescribed according to the smallest penalty, which is prescribed for that misdemeanor, but not under the smallest measure of that type of penalty
2. Instead of the prescribed imprisonment a fine shall be proscribed and
3. Instead of the cumulatively prescribed penalty of imprisonment and the fine penalty, only one of the penalties shall be prescribed.

Computing the detention

Article 21

1. If the person who committed misdemeanor, on whichever ground, is arrested in connection with the misdemeanor, the time spent in detention shall be counted in the penalty.
2. The arresting which lasted longer than 12, and less than 24 hours is counting in one day in prison i.e. 1.000 denars per day and when the fine is proscribed for one day in prison a 1.000 denars are counted.

Police penalty

Article 22

1. If the person who has committed a misdemeanor is caught by an official person while committing a misdemeanor, for which a fine in a determined amount is proscribed, shall pay the fine on the same place on his agreement.
2. If the person who has committed a misdemeanor, does not willfully pay the police penalty from paragraph 1 on the same place or within the period of time which can not be longer than 8 days, The Court shall punish him on a request from an authorized official with a fine penalty, which can not be smaller than the penalty which is proscribed for that misdemeanor, nor bigger than the triple amount of the proscribed penalty, but not more than the maximum of the fine penalty proscribed with this law.
3. In case of a cumulation of misdemeanors, the person who has committed the misdemeanor can not be punished with the police penalty.

II Misdemeanor's warning

Conditions for reaching

Article 23

1. The misdemeanor's warning can be reached instead of a penalty, if the misdemeanor has been done under that aggravating circumstances, which make it easier, and it can be expected that the goal of the punishment will be accomplished with reaching the misdemeanor warning.
2. The misdemeanor's warning can be reached even with the misdemeanor a

prescribed obligation has not been fulfilled*respected or with it a damage has been done and the person who has committed that misdemeanor, has fulfilled the proscribed obligation i.e. has cleaned or made up the damage.

III Security measures Kinds of Security measures

Article 24

- 1. Under the conditions prescribed by the Criminal Code and by this Law for a misdemeanor, the following security measures can be reached:**
 - 1.Obligational medical treatment for alcoholics and drug abusers**
 - 2.Prohibition from conducting a profession, activity or duty**
 - 3.Prohibition from driving vehicle**
 - 4.Taking away certain objects and**
 - 5.Expulsion of foreigners of the country**
- (2) To a legal person a securities measure - prohibition for conducting a certain activity may be prescribed.**

Reaching the security measure Article 25

- 1. The security measures from article 24 except for confiscation of certain things, shall be prescribed when a penalty has been given to the person who has committed a misdemeanor.**
- 2. The security measure of compulsory medical treatment for alcoholics and drug abusers can last more than a year. The lasting of the measure counts from the day of the enforcement of the verdict for the misdemeanor. The time spent in a health or other special institution is shall be calculated in the penalty.**
- 3. The security measure/prohibition from conducting a profession, activity or duty, shall be prescribed in duration from three months to one year. The duration of the measure starts from the day of the enforceability of the verdict for the misdemeanor. The time spent in jail shall not be calculated in the penalty.**
- 4. The security measure/prohibition from driving an engine vehicle can be reached in duration from three months to one year. If it is not otherwise determined by Law with which this misdemeanor is proscribed, the duration of the measure counts from the day when the verdict for the misdemeanor became final. The time spent in jail shall not be calculated in the prescribed penalty.**
- 5. The security measure for confiscation of certain things shall be prescribed even when the person who committed the misdemeanor has been given a misdemeanor's warning.**
- 6. The security measure/expulsion of a foreigner of the country shall be prescribed in duration of six months to two years. The duration of the measure counts from the day when the penalty for misdemeanor became final. The time spent in jail**

shall not be calculated in the reached penalty.

Prohibition from conducting a certain activity to a legal person
Article 26

1. In the verdict with which the measure -prohibition from conducting a certain activity has been given to the legal person, the kind of activity that the legal person is prohibited from doing shall always be specified.
2. The measure/prohibition from conducting a certain activity to a legal person, shall be prescribed if there is a danger that by conducting that activity the legal person might commit a misdemeanor again, which will be dangerous for the life or health of the people or a misdemeanor which may cause a serious property damage to another citizen, or if the legal person has been punished in the last two years for committing the same or similar misdemeanor.
3. With the Law with which the misdemeanor is prescribed, may also allow for compulsory measure prohibition from conducting a certain activity.
4. The Court determines the lasting of the measure from a paragraph 1 which can not be less than six months nor more than five years, counting from day of enforcement of the verdict.

Head 4

Special provisions for the liability and for punishing the minors

Article 27

Against a minor who in the time of the committing of the misdemeanor did not reach age of 14 (child) misdemeanor's sanction can not be implement.

Responsibility of the parent or guardian for the misdemeanor committed by the minor

Article 28

The parent or guardian of the minor who committed a misdemeanor, can be punished by Law if the committing of the misdemeanor was caused by his omitting the duty to take care of the minor.

Reaching misdemeanor sanction against the minor

Article 29

1. To a minor, who in the time of committing of the misdemeanor had more than 14 and less than 16 years of age (younger minor), only educational measure shall be prescribed.

2. To a minor, who in the time of committing the misdemeanor had more than 16 and less than 18 years of age (older minor) an educational measure can be reached and in an exceptional cases a fine or an imprisonment may be prescribed.
3. To a minor, under the conditions proscribed by Law, together with the education measure or a penalty, a security measures can be added.

Article 30

1. To a minor, the following educational measure proscribed in the Criminal Code can be prescribed:

/ discipline measure/admonition

/measures of a stronger supervision: from the parent, step-parents or Guardian or from a social institution

1. The educational measure of a stronger supervision can be prescribed lasting less than 30 days nor longer than 1 year.

Punishing minors

Article 31

1. To an older minor a fine penalty or a penalty of an imprisonment shall be proscribed if the kind and difficulty of the misdemeanor and the high level of responsibility refer to the fact that only on this way the goal of the punishment can be reached.
2. The penalty of an imprisonment to an older minor can be reached in lasting less than 15 days.
3. If the fine penalty is replaced by the imprisonment can not be longer than 15 days

Usage of the security measure

Article 32

To a minor to whom an educational measure has been proscribed or a penalty for a misdemeanor, the following security measures can be proscribed:

1. Compulsory medical treatment for alcoholics and drug addict
2. Confiscation of certain objects
3. Expulsion of a foreigner of the country.

Head 5

Penalty record

Keeping a penalty record

Article 33

- (1) A penalty record is kept only for the proscribed securities measures which contains a prohibition.
 - (2) The penalty record is taken by the first instance court according to the place where the person who has committed a misdemeanor, has been born or the residence of the legal person.
1. The court gives information from the penalty record only on special requests

from other state official, legal or natural persons, if the measures of prohibition are still in force.

2. After the time for the prescribed measures expired, they are deleted from the penalty record.

Head 6

STATUE OF LIMITATIONS

Statue of limitations of commencement and conducting the misdemeanor's procedure

Article 34

1. The misdemeanor's procedure can not be commenced nor conducted if a year expires from the day when the misdemeanor has been committed.
2. The obsolescence of the misdemeanor's prosecution starts from the day when the misdemeanor was committed.
3. The obsolescence does not run for the time for which according to the law , the prosecution can not start and can not continue.
4. The obsolescence is ceased with every activity which is taken because of prosecution of the person who has committed the misdemeanor.
5. The obsolescence is ceased also when the person who has committed the misdemeanor in the time, while term of the obsolescence is running , will commit another difficult or more difficult misdemeanor
6. After every cessation the obsolescence starts to run again.

Article 34

7. The misdemeanor prosecution always expires when the time set forth in statute of limitations prescribed for obssolation of the prosecution had expired two times.
8. (8) By some Law setting forth some types of misdemeanor longer statute of limitations may be prescribed than the one set forth in paragraph 1 of this Law, but no longer then 5 years.

B.

Article 36

1. A person discharging official duties for which s/he is authorized by Law or other regulations passed on the bases of Law;

Expiration of the enforcement of the penalties and securities measures

Article 35

1. The sentenced penalty and the security measures can not be enforced, if from the day when the sentence for the misdemeanor became final one year has passed.
2. The expiration of enforcement of the penalty and the security measure starts to count from the day , when the sentence for the misdemeanor became final.
3. The expiration does not run while the enforcement can not be undertaken by law.
4. The expiration is ceased with every activity of the authorized official , which is taken , because of the enforcement of the penalty or another misdemeanor's sanction.

5. After every cease the expiration continues to run.
6. Expiration of the penalty and security measure becomes in every case, when two time of the period passed.

Head 7

MEANING OF THE TERMS IN THIS LAW

Article 36

Part two

Misdemeanor's procedure

Basic provisions

Competence for prescribing the misdemeanor's sanction

Article 37

The misdemeanor's sanction for a misdemeanor can be prescribed only by an authorized Court in a procedure which has been commenced according to this law.

Implementing the provisions from The Law of criminal procedure

Application of the provisions of the Law on Criminal procedure

Article 38

If the provisions of this Law do not provide otherwise, in the misdemeanor procedure the following provisions of the Law on Criminal procedure shall apply: General principles, for jurisdiction loci, consequences from incompetence of the Court to decide and collisions, for non-participation of the judge or expert witness, for plaintiff, for accused, writs, minutes, statute of limitations, restitution in integrum, expenses, damages, render and announcement of the decisions, service, summoning, detention, bail and confiscation of passport of a foreigner, witness hearing, expert witness, investigation on the spot of the crime, regular and irregular legal remedies and such of premises and persons.

BASIC PROVISIONS

Jurisdiction loci

Article 39

1. The misdemeanor's procedure in first instance shall be conducted by the trial court and in second instance by the Appellate court.
2. In the misdemeanor's procedure the single judge renders the decisions and in second instance a counsel of three judges makes decisions.

Head Ten

ACCUSED AND HIS RIGHT OF DEFENSE

Accused

Article 40

1. Accused is a natural or a legal person against whom a misdemeanor's procedure is conducted.
2. If for a misdemeanor a legal person is accused and a responsible person within the legal person one procedure is conducted.

Representing a legal person

Article 41

- 1. For the accused legal person his representative takes part in the misdemeanor's procedure and he is authorized to take over all the actions, that the accused can undertaker.**
- 2. A representative of accused legal person is a person who is authorized to represent the legal according to a law , or another regulation of the authorized state official, statue or another general act of a legal person.**
- 3. The authorized official to the accused legal person can for a representative determine another person from its members or another employees within the legal person or in the service which performs common activities.**
- 4. The representative of the accused legal person from paragraph 3 of this article has to have a power in written from the authorized official which has determined him for a representative.**
- 5. Representative of the accused legal person can be only one person.**

Representing foreign legal person

Article 42

The foreign legal person is represented by the head of the representative office or another person authorized from the foreign legal person.

Limitations of the representation

Article 43

- 1. The proxy of the accused legal person shall not be the responsible person of the legal person against which the misdemeanor procedure is conducted for commitment of the same misdemeanor,**
- 2. The proxy of the accused legal person shall not be the witness in the trial,**
- 3. In cases set forth in paragraphs 1 and 2 of this Article, the Court shall notify the accused that it will have to appoint another proxy.**
- 4. For foreign accused legal person notification set forth in paragraph 3 of this law shall be served to the representative office of that legal person.**

Representing many accused legal persons

Article 44

Many accused legal persons can have for a representative the same person, only if it is not in contrary with the interests of their defense.

Determination a representative by the Court

Article 45

- 1.If the responsible person can not be the proxy of the legal person because of the reasons set forth in Article 43, but there is no other responsible person , the Court**

shall appoint ex-officio councilor from registered lawyers.

Article 46

1. The damaged person himself or through his/her proxy or representative shall have the right to :
2. File a request for commencement of the misdemeanor procedure,
3. Submit evidences, suggestions and request damages for damage compensation or restitution of things,
4. To appeal the judgment rendered on his/her request for commencement of the misdemeanor procedure or relating to the decision of the expenses of the procedure,
5. To give up the request for commencement of the misdemeanor procedure and in that case s/he shall have no right to put the accused in double jeopardy.

Head Ten

THE DAMAGED AND HIS REPRESENTING

Damaged

Article 46

1. Damaged within the meaning of this Law is a person whose right is infringed or endangered by misdemeanor.
2. The damaged by himself or by his legal representative, or by an authorized person shall have the right to:
 - 1 submit a request for commencing a misdemeanor's procedure
 - 2 submit evidences , submit proposals and request damages and delivery of already taken things.
 - 3 Lodge an appeal on the decision which has been reached, on his request for commencing the misdemeanor's procedure, or after the decision for the costs of the procedure.
 - 4 Give up request for conducting the misdemeanor's procedure until rendering the decision for the misdemeanor and in that case shall not have the right to submit a request for prosecution.

Head 11

SERVING A SUMMON TO A LEGAL PERSON

Serving a summon to a legal person

Article 47

1. To state official the decisions and the other summons are delivered with hand delivering in the in/take office.
2. The delivering of the legal persons is conducted by hand delivering the summon to the person authorized for taking the summons or to the employee who was present in the office.
- (3) When a decision is served for which from the day of its serving the statue of limitations starts to expire, the in-take in the archives of the body or the person

set forth in paragraph 2 of this Article shall be considered as a day of serving.

Head 12

COMMENCING A MISDEMEANOR'S PROCEDURE

Submitter of the request

Article 48

3. The misdemeanor's procedure is commenced on a request from the authorized official and the damaged person(in the following text : submitter of a request).
4. Authorized officials , within the meaning of paragraph 1 from this article are: the administrative officials , the Public prosecutor, the self government units and other officials and organizations which are publicly authorized, in charge with enforcement or supervision of the application of the regulations which set forth misdemeanors.
5. In the case of the article 22 of this law (police penalty), the civil servant who is legally authorized to ask for payment of the penalty on the same place, shall submit a request for a misdemeanor's procedure , if the person who has committed the misdemeanor does not pay the penalty on the same place, or if he has committed misdemeanors in cumulation.
6. The authorized officials from the paragraphs 2 and 3 are obligated to submit a request for commencing a misdemeanor's procedure every time , when there are basis for commencing a procedure for misdemeanor.
7. The request for commencing a misdemeanor's procedure is submitted in written .
8. The damaged may submit than oral request in the Minutes.

Contents of the request

Article 49

1. The request for commencing a misdemeanor's procedure shall contain:
 2. basic information for the accused(name and surname, nick name(if he has it) ,place and date of birth, residence, street and number, citizenship and profession), or name and residence of the accused legal person, and for the responsible person within the legal person, his function within the legal person.
 3. The factual description of the misdemeanor from which the legal attributes of the misdemeanor are derived, time and place where the misdemeanor has been committed and other circumstances needed for closer determination of the misdemeanor.
1. Legal qualification of the misdemeanor that should be applied;
2. Proposal for the evidences that should be examined; and
3. Signature of the submitted of the request.
4. When the request for commencement of the misdemeanor procedure is filed by a person who suffered the damage, the request shall not contain a legal qualification.
5. The plaintiff shall also have the right to submit a request for compensation of the sustained damage together with the request for commencement of the misdemeanor procedure.
6. The plaintiff shall submit evidences.

Uncompleted request

Article 50

- 1. When the request for commencement of the misdemeanor procedure does not contain all the elements set forth in Article 49 of the said Law, the Plaintiff shall be requested to complete his/her request within 15 days. When the plaintiff does not completed his/her request components**
- (2) When the plaintiff does not complement his/her request within the estimated period of time, it will be considered that s/he gives up from his/her request and such request shall not be taken into consideration.**

Rendering a decision upon a request

Article 51

When the Court competent for misdemeanors determines that all the conditions for conducting misdemeanor procedure are in place, shall render a decision for conducting the procedure.

Rejection of the request

Article 52

- 1) When the Court determines that the conditions for commencement of the misdemeanor procedure are not meet it shall reject such request by its decision.**
- 2) The conditions for commencement of the misdemeanor procedure are not meet in the following circumstances:**
 - 1. When the described act does not qualify for misdemeanor;**
 - 2. There are grounds on which the liability is excluded for misdemeanor committed;**
 - 3. Due to lapse of time for commencement of the misdemeanor procedure;**
 - 4. The request was filed by unauthorized entity or person;**
 - 5. There are other legal reasons due to which the misdemeanor procedure can not be commenced and;**
 - 6. The request was not accompanied by the evidences for the committed misdemeanor.**
- 3) The decision set forth in paragraph 1 shall be served to the plaintiff and the person who sustained damages shall be notified that s/he can claim damages in civil procedure.**
- 4) The plaintiff shall have the right to lodge an appeal with the Appellate Court against the decision set forth in paragraph 1 within 15 days.**

Seville of the request

Article 53

- 1) The Court shall summon up the accused and service the request for commencement of the misdemeanor procedure or notify him/her that s/he will have to furnish a written defense.
- 2) If some right or obligation depends on the time when the misdemeanor procedure was commenced, it shall be considered that the procedure was commenced when the decision for commencement of the misdemeanor procedure was rendered.

Chapter 13

INTERIM MEASURES FOR SECURING THE ATTENDANCE OF THE ACCUSED AND FOR CONDUCT OF THE MISDEMEANOR PROCEDURE

Types of measures

Article 54

Interim measures which can be undertaken against the accused for securing his/her attendance and for conducting the misdemeanor procedure shall be the following: summoning up, detention, bail and temporary confiscation of the passport of the foreign person.

Detention

Article 55

- 1) The Court shall have the right to keep the accused in detention for five days if
 1. the accused can not prove his/her identity or does not have residence or can obstruct the trial if s/he travels abroad;
 2. it qualifies for aggravating misdemeanor which is punishable with imprisonment and
 3. cough in flagrant when s/he was committing the misdemeanor.
- 2) The Court shall render a decision for detention if the plaintiff files request for commencement of the misdemeanor procedure together with explanation.
- 3) The accused shall have the right to lodge an appeal within 24 h with the Appellate Court who shall render a decision for the application and shall delivered it to the Trial Court within 48 hours counting from the moment of the in-take of the file documents.

Bail

Article 56

- 1) When the misdemeanor procedure is conducted against the accused who does not

have permanent residence in the Republic of Macedonia and wants to leave the country before the conclusion of the procedure, on his/her request the Court shall have the right to ask for bail in order to secure fulfillment of the conditions which can be foreseen in the decision for misdemeanor.

2) The Court shall have the right to ask the accused besides the bail to appoint a proxy who, acting on his/her behalf, shall in-take documents and represent him/her in the procedure relating to the property rights.

3) The bail shall always be calculated in money depending on the type of the misdemeanor, foreseen prescribed penalty and damages sustained. The bail shall consist of deposits of cash, securities or treasures.

Chapter 14

HEARING OF THE PROXY

Hearing of the proxy of a legal person

Article 57

1) When the misdemeanor procedure is conducted against a legal person, a hearing of the proxy of the accused legal person shall be conducted.

2) When the hearing is held for the first time the Court shall firstly establish his/her identity and examine whether s/he has the power to represent the accused legal person. Than the following data for the legal person shall be gathered: economic situation, whether it has been previously punished and the number of the account in the Public Payments Office (ZPP).

3) Provisions for hearing of the accused shall be applied when conducting hearing of the proxy of the legal person, accordingly.

Chapter 15

TEMPORARY CONFISCATION OF THINGS

The procedure for confiscation

Article 58

1) The things that shall be confiscated according to Article 24, paragraph 1, item 4 of the said Law. They may be also temporary confiscated for some time even before the judgment for misdemeanor is rendered.

2) Temporary confiscation of the things shall be ordered by a written order of the Court in charge with the misdemeanor procedure. Copy of that order shall be delivered to the person from whom the things were confiscated.

3) The same person shall receive a receipt with notification and description of the confiscated things.

4) When the things can be easily spoiled or when the storage requires huge expenses

and the it can not be stored by other person on the expense of the person from whom the things were confiscated, the Court in charged with misdemeanor procedure shall put up that thing for sale and the money received shall be deposited on the Court's account.

Temporary confiscation performed by other bodies

Article 59

1) The Law may give authorization to the civil servants in the state administration temporary to confiscate things set forth in Article 24, paragraph 1, item 4 of the said Law, when in the course of performance of official duties they will be informed about the misdemeanor and shall immediately deliver the temporary confiscated things to the competent Court, i.e., shall inform the Court for the temporary confiscation of things and shall store them until the commencement of the misdemeanor procedure.

2) In case set forth in paragraph 1 the civil servants shall immediately file a request for commencement of misdemeanor procedure or 8 days from the day of confiscation of things the latest. If not they shall deliver back the confiscated things.

Temporary delivery back of the things to the owner

Article 60

On the objection of interested person or ex officio, the Court in charge with misdemeanor procedure shall deliver back the temporary confiscated things to the owner.

Chapter 16

TEMPORARY INJUNCTION OF THE PERFORMANCE OF ACTIVITIES

Temporary injunction of other bodies

Article 61

1) Civil servants of the state administration authorized by Law, shall have the right to issue temporary injunction of the activities and immediately file a request for commencement of the misdemeanor procedure, 8 days the latest.

2) When the request is not filed within the period of time set forth in paragraph 1 it shall be considered that the temporary injunction ceased.

Cessation of the temporary injunction issued by the Court

Article 62

The Court in charge with the misdemeanor procedure shall have the right on the

objections of the accused or ex officio to cease the temporary injunction.

Chapter 17

COURSE OF THE PROCEDURE

Deposition

Article 63

- 1) The Court shall conduct deposition for the purposes of fact-finding.**
- 2) The accused, his/her councilor, plaintiff, witnesses and expert witnesses shall be summoned. When the accused or the plaintiff is a legal person, his representative shall be summoned.**
- 3) Any person who sustained damage shall be notified of the day, hour and place of deposition, only when does not causes a delay.**

Deposition in absence of the accused and the plaintiff

Article 64

- 1) The Court shall have the right to held a deposition in the absence of the accused who was summoned, when the Court considers that his/her presence is not necessary for the fact-finding. The same conditions shall apply for deposition held in absence of the summoned representative of the accused legal person.**
- 2) The deposition shall be held in the absence of summoned councilor of the accused.**
- 3) The deposition shall be held in the absence of the plaintiff if s/he was summoned and the Court considers necessary to render a decision for the request.**

Exclusion of the public

Article 65

- 1) Taking deposition is public.**
- 2) The Court officio or on the proposal of the parties but always after hearing them, shall have the right with decision to exclude public from the complete procedure or from some part if that is necessary because of the reasons of confidentiality, protection of the morality, the interest of minors or protection of other special interests of the society.**
- 3) When the accused is minor than the public shall be exclude from the deposition.**
- 4) The decision for exclusion of the public shall be rejected only by application filed against the rendered decision for the misdemeanor.**

Confidentiality

Article 66

- 1) Exclusion of the public shall not apply to the parties, damaged person, their representatives and the councilor.
- 2) The Judge shall warn the persons attending the deposition from which the public is excluded that they shall keep confidential all the facts given on the deposition and warn them that in contrary they will commit criminal offense.

Course of deposition

Article 67

- 1) The deposition starts with the announcement of the content of the request, then the accused is examined. When the legal person and responsible person of a legal person are accused, first the representative of the legal person shall be heard and then the responsible person. After examination of the accused, the witnesses and expert witnesses shall be heard and other evidences shall be presented.
- 2) The plaintiff, accused and his councilor and the representative of the legal person together with the damaged person shall have the right during the deposition to submit evidences and give other proposals and after approval of the Judge shall have the right to ask questions.
- 3) On the deposition the very last word shall always be given to the accused, i.e., to the representative of the accused legal person.
- 4) When the Judge considers that the deposition should not be delayed because of the complement of the procedure or clarification of some issues s/he shall conclude the deposition and render a decision which shall be publicly promulgated with brief reasoning.
- 5) Minutes containing the main elements shall always be prepared. The Minutes shall be signed by the judge and the transcript.

Case when the accused committed misdemeanor or criminal offense

Article 68

- 1) If during the misdemeanor procedure the accused committed misdemeanor, the Judge on the request of the plaintiff shall consolidate the procedure for that misdemeanor.
- 2) When the plaintiff is not presented or not authorized to file a request for commencement of the misdemeanor procedure relating to misdemeanor set forth in paragraph 1 of this Article or the accused committed criminal offense the Judge shall prepare minutes and inform authorized plaintiff or the public prosecutor. The same method shall be applied if some other party during the misdemeanor procedure commits misdemeanor or criminal offense.

Cessation of the procedure

Article 69

1) The Judge shall cease the procedure with the decision in the following cases:

1. If the domicile of the accused can not be established, if s/he is fugitive or if from many other reason is not accessible to the police or it is living abroad for indefinite period of time.

2. If the accused is temporary mentally ill or has nerve brake down,

3. If for the same act a criminal procedure is commenced until the final judgment is reached and

4. When the procedure ceased on the ground of paragraph 1 item 3, it shall continue when the criminal procedure is ceased because of some other reasons, but there are still legal grounds for misdemeanor procedure.

2) Before the decision for cessation of the misdemeanor procedure is rendered all the evidences for the misdemeanor and for the liability of the accused shall be gathered.

3) The ceased procedure shall continue when the reasons for cessation are overcome.

4) The plaintiff shall be informed for the cessation and continuance of the procedure.

Chapter 18

RENDERING AND ANNOUNCEMENT OF DECISIONS

Types of decisions

Article 70

Decisions in the misdemeanor procedure shall be rendered in the form of judgment, decisions or orders.

Rendering a decision

Article 71

1) The misdemeanor procedure shall be concluded when the judgment or decision is rendered.

2) Judgment or decision shall apply only to the accused and only for the misdemeanor which is subject of the request.

3). The Court shall not be bound with proposals and assessments relating to the legal qualification of the misdemeanor.

4) The Judgment or decision shall be rendered on the bases of submitted evidences and facts determined in the misdemeanor procedure.

Judgment

Article 72

- 1) The Judgment for misdemeanor shall stop the misdemeanor procedure or the accused shall be found guilty and sentenced.
- 2) When the misdemeanor procedure is conducted for more misdemeanors committed, the Judgment shall state for which misdemeanors the procedure is stopped and for which the accused is found guilty and what is the penalty.

Judgment which stops the procedure

Article 73

1) The Judgment stopping the misdemeanor procedure shall be rendered in the following cases:

1. If the act does not qualify for misdemeanor.
2. If the accused did not commit misdemeanor.
3. If there are circumstances which are excluding the liability for misdemeanor.
4. If the procedure is conducted without request from the authorized body, i.e., from the damaged person (Article 48, paragraph 1).
5. If the procedure was conducted by unauthorized Court.
6. If the accused has already been punished for the same misdemeanor, or the misdemeanor procedure was stopped for other reason than non-competence of the Court.
7. If accused in the criminal procedure, i.e., or accused for committing commercial offense is found guilty for the act which also qualifies for misdemeanor.
8. If the accused has diplomatic immunity.
9. If the time lapsed for conducting the misdemeanor procedure.
10. If there are no evidences that the accused committed the misdemeanor and
11. The plaintiff had gave up his/her request before the Judgment became final.

2) The misdemeanor procedure shall be stopped in other cases determined by the Law.

Decision to stop the procedure

Article 74

- 1) The procedure shall be ceased with the decision:
- in case of death of the accused
 - in case of dissolution of the legal person
 - when the Court establishes that the misdemeanor is committed in lucid intervals
 - when during the procedure the accused becomes permanently mentally ill.

Chapter 19

LEGAL REMEDIES

Types of legal remedies

Article 75

- 1) An appeal against the Judgment and decision of the Court of first instance shall be lodged with the Court of second instance.**
- 2) Against the final Judgment the following irregular legal remedies shall be applicable:**

- request for opening up again the same misdemeanor procedure and request for the protection of the legality.

Chapter 20

SPECIAL PROCEDURES

Misdemeanor procedure against minors

Application of the provisions of this chapter

Article 76

The provisions of this chapter shall be applied against minors and other provisions of the misdemeanor procedure shall be applicable of said Law only if they are not in a collision with the provisions of this chapter.

Competence

Article 77

- 1) The Court within whose area of jurisdiction the minor has domicile or residence shall be competent for conducting misdemeanor procedure against the minor.**
- 2) The misdemeanor procedure against the minor is an urgent one.**

Detachment of the misdemeanor procedure

Article 78

- 1) When the misdemeanor procedure is conducted against adults and minors, the misdemeanor procedure against the minor shall be detached and conducted in accordance with the provisions of this Law.**
- 2) When because of the justified reasons it is not positive to detach the procedure than the misdemeanor procedure against the minor shall be conducted together with the adults in accordance with the provisions of the said Law.**

3) When a single misdemeanor procedure against the minor and adult is conducted, Article 81 and 82 of the said Law, shall apply.

Summoning of the minor

Article 79

- 1) The minor shall be summoned via his parents, i.e., his guardian unless that is not possible because of need urgently to proceed or for any other important reasons.**
- 2) If summoning of the minor is not done via his parents, i.e., his guardian the Court shall inform the parent or guardian for the commencement of the procedure.**

Opinion obtained by the guardians body

Article 80

- 1) Opinion from the guardians body shall be obtained for the minor's personality if the misdemeanor procedure is conducted against minor for which imprisonment is prescribed.**
- 2) The guardians body in his opinion shall state all the circumstances important for rendering fair and legal decision and especially for the former behavior of the minor and the family situation.**
- 3) The guardians body as well as other institutions and organizations which are requested to provide information, report and opinion shall urgently proceed.**

Obligation for testimony

Article 81

No one shall be liberated from the obligation to give a testimony for the circumstances important as indicators for emotional development of the minor and for his personality and living conditions.

Rights of the parent-guardian

Article 82

- 1) The parents, guardians and the guardians body shall have the right to be informed about the misdemeanor procedure and in the course of the procedure to give suggestions and proposals and submit evidences and facts important to render correct decision.**
- 2) In the performance of the activities relating to the minor in his presence and especially during his examination the persons participating in the misdemeanor procedure shall act carefully, taking into consideration the emotional development, sensitivity and personality of the minor.**

Cessation of the procedure

Article 83

- 1) The misdemeanor procedure shall be ceased with the decision when during the misdemeanor procedure it is established that the minor in the time of the commitment of misdemeanor still did not reached age of 14.**
- 2) In case set forth in paragraph 1 of this Article, the Court shall inform the parent, the guardian or the guardian body for the committed misdemeanor and shall have the right to assess the need whether also to inform the school or foster home in order them to undertake educational measures.**

Authorization of the Court to decide upon the justification of the procedure

Article 84

- 1) The Court after priory obtained opinion of the body for social care shall have the right to decide not to conduct misdemeanor procedure against the minor, if in the Court's opinion that is not justified when considering the nature of the misdemeanor, circumstances of its commitment, prior life of the minor and his personality.**
- 2) In case set forth in paragraph 1, the request shall be rejected with the decision and its reasoning. For the committed misdemeanor the parents, the guardian and the guardian body shall be informed.**

Compulsory hearing

Article 85

- 1. During the misdemeanor procedure conducted against the minor, a decision shall not be rendered without hearing him/her first.**
- 2. The minor shall not pay the Court fees, nor shall pay for damages in case of being admonished.**

Decisions reached during the procedure

Article 86

- 1. A decision against the minor shall be reached which provides for punishment or educational measure.**
- 2. The Court shall cease the procedure in case the conditions set forth in Articles 73 and 74 are meet.**

Serving of the decision

Article 87

1. An oral decision shall be transcript and served to the minor within 8 days from the moment that decision was announced.
2. Parents, guardians and guardian institutions shall be served with a copy of the final decision for misdemeanor with which the minor is sentenced, in order to undertake the educational measures.

Appeal

Article 88

1. Besides persons set forth in Article 351 from the Law on Criminal Procedure a right to lodge an appeal shall have his/her guardian, brother, sister or a person who takes care of him/her.
 2. Person set forth in paragraph 1 of this Article shall have the right to lodge an appeal against the will of the minor, when it is in minor's favor.
- B.

C.Irregular legal remedies

D.

Article 89

The following irregular legal remedies shall be available for the misdemeanor procedure in favor of the minor: Request for opening -up the same misdemeanor procedure and request for the protection of the legality.

Urgent procedure

Misdemeanors for which the urgent procedure applies

Article 90

The urgent procedure shall be conducted if:

1. the request contains all the relevant facts and evidences which constitutes sufficient ground for rendering a decision in absenti of the parties;
2. the request for commencement of the misdemeanor procedure is based on documents issued by competent state body; and
3. the accused is caught in flagranti, when s/he was committing the misdemeanor.

Attributes of the Urgent procedure

Article 91

During the urgent procedure, the Court shall render the decision without conducting hearing of the accused when s/he was summoned and did not appear in the Court.

Permanent session of the court

Article 92

For the urgency of the procedure, the Court shall be in permanent session for 24 hours.

Urgency of the procedure

Article 93

- 1. The court shall immediately commence a procedure after the in-take of the request, within 3 days the latest.**
- 2. When the accused is a foreigner, the Court shall render a decision in the shortest possible period, no longer than 3 days.**

Time bars for legal remedies

Article 94

- 1. An appeal shall be lodged within 8 days from the moment the decision was rendered.**
- 2. The Court of the second instance shall render the decision for the appeal within 2 months from the moment of the in-take of the appeal.**

Chapter 21

ENFORCEMENT OF THE DECISIONS

Enforcement of a judgment or a decision

Article 95

- 1. The judgment or the decision with which the minor is sentenced for misdemeanor shall become final when the right to lodge an appeal is exhausted.**
- 2. The final decision or judgment shall become enforceable when it is served and there are no legal grounds to inhibit its enforcement. When the appeal is not lodged or the accused gives up his/her right to appeal, the decision shall become enforceable with the laps of time of the right to lodge the appeal, i.e., from the day s/he gives up the right to lodge the appeal.**
- 3. The judgment or the decision for misdemeanor which contains fine, or the decision about payment of court fees, or payment of damages, or confiscation of illegally obtained property, shall become enforceable when the prescribed term for payment will expire.**
- 4. When the convict lodges an appeal, the term set forth in paragraph 3 of this Article shall start to count from the day the second instance Court was served**

with the decision for the misdemeanor.

**Application of the provisions from the
Law on the Execution of Sanctions**

Article 96

Imprisonment, fine, imprisonment which substitutes payment of fine, security measures and educational measures shall be executed in accordance with the Law on the Execution of Sanctions, if said Law does not provide otherwise.

Competent Court

Article 97

The competent Court determined by law shall enforce the imprisonment provided in the final decision for the misdemeanor, or the imprisonment which substitutes payment of a fine.

Execution of a fine

Article 98

- 1. Fine and Court fees shall be collected by the Court who rendered the decision in the first instance.**
- 2. Fine and the court fees shall be paid in the post office or bank on the special form issued by the competent Court within the period of time estimated by the judgment. Filled form shall be delivered to the convict together with the first instance or second instance decision.**
- 3. The Post office or the Public Office for Payment where the punished has his/her bank account shall inform within 3 days the competent Court for the payment set forth in paragraph 2 of this Article.**

B.

Collection of fine

Article 99

- 1. The collection of fine and Court fees shall be conducted ex officio by the Court who renders the first instance decision.**
- 2. The collection of the fine and Court fees shall be done in accordance with the provisions for the Collection procedure of the payment of the fine for which the convict was sentenced in the Criminal procedure.**

Application of the provisions of the Execution Procedure

Article 100

The provisions of the Execution Procedure shall apply for execution of some obligation provided in the misdemeanor decision or judgment.

Part 3

Chapter 22

SPECIAL PROVISIONS

Article 101

Paid fines and fees shall become an income of the Budget of the Republic of Macedonia.

FINAL AND TRANSITIONAL PROVISIONS

Article 102

- 1. The procedure commenced in accordance with the Law on Misdemeanor [☞]Official Gazette of SRM no. 43/84, 42/85, 50/87, 10/88, 36/89, 42/89, 7/90 and [☞]Official Gazette of RM no. 25/92, 63/92 and 12/94 for which the Court of first instance rendered the decision shall continue in accordance with that Law.**
- 2. When in the appellate procedure or because of other irregular legal remedies the decision is send back for rendering a new decision, the procedure shall be conducted in accordance with this Law.**

Article 103

From the day this Law enters into force the following Laws shall no longer be valid: Law on Misdemeanor [☞]Official Gazette of SRM no. 43/84, 42/85, 50/87, 10/88, 36/89, 42/89, 7/90 and [☞]Official Gazette of RM no. 25/92, 63/92 and 12/94, Law on commercial offenses [☞]Official Gazette of SFRJ no. 4/77, 10/86, 74/87, 57/89, and 30/90, Articles 122 to 124 relating to the procedure of the Law on the Foreign Currency Operations [☞]Official Gazette of RM no. 230/93, Articles from 305 to 307 from the Law on Custom [☞]Official Gazette of RM no. 20/93, and the Articles from the Law on the External Trade Cooperation [☞]Official Gazette of RM no. 31/93, 41/93 and 78/93.

Article 104

- 1) The procedure commenced in accordance with the Law on Commercial Offenses for which the Court of first instance rendered the decision shall continue in accordance with that Law.**
- 2) When in the appellate procedure or because of other irregular legal remedies the decision is send back for rendering a new decision, the procedure shall be conducted in accordance with this Law.**

Article 105

An average salary used for definition of lower and upper limit of the fine shall be 8.500,00 denars in accordance with the average salary paid to the employees in the Republic for April 1996.

Article 106

The Law providing for fine expressed in salaries shall be harmonized with this Law within 2 years this Law enters into force.

Article 107

This Law shall enter into force the 8 day from the day of its promulgation in the Official Gazette of RM.

