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## 141/1961 Coll.

### ACT

of 29 November 1961

**on Criminal Procedure**

**(Code of Criminal Procedure)**

The National Assembly of the Czechoslovak Socialist Republic has passed the following Act:

### **PART ONE**

#### **Common Provisions**

##### CHAPTER ONE

##### General Provisions

###### Section 1

###### **Purpose of the Act**

(1) The purpose of the Code of Criminal Procedure is to regulate the law enforcement authorities so that criminal acts are properly identified and their offenders are punished fairly under the law. The procedure must act to strengthen the rule of law, to avoid and prevent criminal activity, to educate citizens in the spirit of strict observance of laws and rules of civil coexistence and the honest performance of statutory obligations towards the state and society.

(2) Pursuant to the provisions of this Act, it is the right and obligation of a citizen to aid in achieving the purpose of the criminal proceedings.

###### Section 2

###### **Basic Principles of Criminal Procedure**

(1) No person shall be prosecuted other than for legitimate reasons and in a manner as stipulated by this Act.

(2) A person against whom a criminal procedure is carried out may not be perceived as guilty until the final convicting judgment of the court pronounces them as guilty.

(3) The public prosecutor is obliged to prosecute all criminal offences of which they learn, unless the law or a promulgated international treaty to which the Czech Republic is bound stipulates otherwise.

(4) Unless this Act stipulates otherwise, the law enforcement authorities act ex officio. Criminal cases must be dealt with as soon as possible and with a full investigation of rights and freedoms guaranteed by the Charter of Fundamental Rights and Freedoms and by international treaties on human rights and fundamental freedoms that the Czech Republic is bound by; when conducting acts of criminal procedure, the rights of persons that such actions affect may be intervened only when justified by law and to the extent necessary to ensure the purpose of criminal proceedings. The law enforcement authorities shall not take the content of petitions affecting the performance of such obligations into account.

(5) Law enforcement authorities act in accordance with their rights and obligations under this Act and with the assistance of the parties so as to duly establish the facts of the case of which no reasonable doubt exists and to the extent that is necessary for their decisions. A confession of the accused shall not relieve the law enforcement authorities from the obligation to examine all the relevant circumstances of the case. During the preliminary hearings, the law enforcement authorities shall ascertain all the circumstances for and against the person against whom the proceeding is pending with the same care and in the manner provided by this Act even without petitions of the parties to an action. In proceedings before the court the public prosecutor and the accused may support their position with the proposal and submission of evidence. The public prosecutor must prove the guilt of the defendant. However, this does not relieve the court of the obligation to provide additional evidence to the extent required for their decision.

(6) Law enforcement authorities shall review the evidence according to their conviction based on careful consideration of all the circumstances of the case separately and as a whole.

(7) All law enforcement authorities shall cooperate with public interest groups and utilise their educational activities.

(8) A criminal prosecution before the courts is only possible on the basis of an indictment or a petition for punishment served by the public prosecutor. A bill of indictment in proceedings before the court is represented by the public prosecutor.

(9) In criminal proceedings before the court, decisions are made by the court or a single judge; the presiding judge or a single judge decides alone only if so expressly stipulated by the law. Should the decision during a preliminary hearing be made by a court in the first instance, then such decisions shall be made by a judge.

(10) Criminal cases are heard in public before the court so that citizens may observe and participate in hearing. At the main trial and public hearing, the public may be excluded only in cases expressly stipulated for in this Act or in a special Act.

(11) Proceedings before the courts are oral; the testimony of witnesses, experts and the accused are normally undertaken through an interrogation.

(12) When deciding during a main trial, as well as during public and closed hearings, the court may only take into account evidence that was given during such proceedings.

(13) The person against whom criminal proceedings have been initiated must be instructed in every stage of the proceedings as to their rights granting them the full use of defence and that they may choose their defence counsel; all law enforcement authorities are required to enable them to exercise their rights.

(14) Law enforcement authorities conduct the proceedings and produce decisions in the Czech language. Any person who declares that they do not speak Czech is entitled to speak their mother tongue or a language that they indicate they can speak to the law enforcement authorities.

### **Cooperation with Public Interest Groups**

#### Section 3

(1) Trade unions and employers' organisations and other civic associations with the exception of political parties and political movements, churches, religious societies and corporations pursuing the course of their charity work (hereinafter referred to as "Public Interest Groups") may operate in the prevention and elimination of criminal activity as specified in this Act.

(2) Public Interest Groups can co-operate in the education of people for whom a court decided on conditional suspension of punishment with supervision or whose criminal prosecution was conditionally suspended, the conditionally convicted, those sentenced to a conditional prison sentence with supervision, and conditionally released; they may also help to create the conditions in order that the person may live a full life subsequent to completion of the sentence.

#### Section 4

#### **Repealed**

#### Section 5

#### **Repealed**

#### Section 6

(1) Public Interest Groups can offer to guarantee

a) the conduct of an accused whose prosecution was conditionally suspended,

b) the re-education of a convicted person, whose punishment with supervision was conditionally waived and who was convicted to prison sentence with the execution of such sentence deferred for a probation period, a conditionally convicted to prison sentence with supervision, or

c) the completion of the correction of a convicted person who serves a prison sentence, punishment of residence or activity restrictions; in such cases, Public Interest Groups may together propose the conditional release of a convicted person from a prison sentence or the conditional waiver from the service of the remaining punishment of residence or activity. To collect evidence for such an application such groups may inform, with the consent of the convicted person, on their conduct and current course of serving a sentence.

(2) Public Interest Groups may also suggest that the custody of an accused be substituted by their guarantee ([Section 73](#)), and submit a request for pardon and effacement of the conviction for such convicted person.

(3) Public Interest Groups that assume such guarantee are required to encourage the accused or convicted person to live a full life and to take the necessary measures; Public Interest Groups also ensure that the person in question compensates for damages or non-material damage, caused by the criminal offence or surrenders any unjust enrichment which they obtained through a criminal offence.

### **Cooperation of Public Authorities, Natural Persons and Legal Entities**

#### Section 7

Law enforcement authorities are obliged to assist each other in the execution of tasks arising under this Act.

#### Section 8

(1) Public authorities, legal entities and natural persons are required to comply with letters of request from law enforcement authorities for the performance of their actions without undue delay and unless a special regulation stipulates otherwise, to comply without payment. Furthermore, public authorities are also obliged to immediately notify the public prosecutor or the police authorities of facts indicating that a criminal offence has been committed.

(2) If the criminal proceedings require a proper investigation of the circumstances suggesting that a criminal offence has been committed or to assess the circumstances of the accused during court proceedings or for the enforcement of a decision, the public prosecutor and, after the indictment or a punishment petition, the presiding judge may request information that is subject to banking secrecy and data from the security register. Pursuant to [Section 180 of the Penal Code](#), the law enforcement authority may request individual data obtained under a special Act for statistical purposes during the criminal proceedings. The conditions under which the law enforcement authority may require the data obtained in the administration of taxes are stipulated under a special Act. Data obtained under this provision may not be used for a purpose other than the criminal proceedings for which such data was requested.

(3) For the reasons as stated in [Subsection 2](#), the presiding judge may, and upon the proposal of the public prosecutor during a preliminary hearing, order the surveillance of the bank accounts or accounts of persons entitled to the records of investment instruments under a special Act for a maximum period of six months. If the reason for which the surveillance of an account was ordered exceeds this time, it may be extended upon the order of a judge from a court of higher instance and, during preliminary hearing, upon the proposal of the public prosecutor of the County Court judge for a further six months, and such prolongation can be performed repeatedly. Information obtained under this provision may not be used for a purpose other than the criminal proceedings for which it was obtained.

(4) The performance of obligations under [Subsection 1](#) may be rejected with reference to the obligation to maintain the secrecy of classified information protected by a special Act or imposed by the State or the recognised duty of confidentiality; this does not apply,

a) if the person who has the obligation would otherwise risk criminal prosecution for the failure to notify or prevent a criminal offence, or

b) in executing the request of a law enforcement authority with regards to a criminal offence, where the requested person is also the reporter of the criminal offence.

The State recognised obligation of confidentiality under this Act does not consider such obligation the scope of which is not defined by law but instead arises from a legal action taken under the law.

(5) Unless a special Act stipulates the conditions under which information may be disclosed for the purpose of criminal proceedings that are deemed classified pursuant to such Act or which is subject to an obligation of secrecy, such information may be requested for criminal proceedings upon the prior consent of the judge. This does not affect the obligation of confidentiality of an attorney under the Advocacy Act.

(6) The provisions of [Subsection 1](#) and [5](#) shall not affect the obligation of confidentiality imposed on the basis of a declared international treaty to which the Czech Republic is bound.

## **Provision of Information on Criminal Proceedings and the Associated Parties**

### Section 8a

#### **Heading Omitted**

(1) In the provision of information on its activities to the public, law enforcement authorities shall ensure that they do not endanger the clarification of facts relevant to the criminal proceedings, they do not disclose information on persons involved in criminal proceedings that are not directly related to the criminal activity, and that a person against whom a criminal procedure is in process cannot be perceived as guilty until the final convicting judgment of the court pronounces them as guilty ([Section 2 Subsection 2](#)). Information that may enable the identification of the person against whom the criminal proceedings are conducted or any victims and witnesses and other parties to an action must not be disclosed during the preliminary hearing.

(2) When providing information under [Subsection 1](#), the law enforcement authorities must pay particular attention to ensuring the protection of personal data and the privacy of persons less than 18 years of age.

(3) Law enforcement authorities shall inform the public of their activities with the provision of information to public media under [Subsection 1](#); such provision of information may be withheld due to the protection of interests referred to in [Subsection 1](#) and [2](#). If the public prosecutor reserves the right to provide information with regards to a particular criminal case during the preliminary hearing, the police authority is granted to disclose such information only with the prior consent of such public prosecutor.

### Section 8b

(1) Persons who have been granted information, which is subject to prohibition of disclosure under [Section 8a Subsection 1](#) second sentence, by the law enforcement authorities for the purpose of criminal proceedings or to exercise the rights and obligations as stipulated by a special legal regulation, are to refrain from the distribution of such information to any person unless such provision is necessary for the stated purposes. Such persons must be informed of such an act.

(2) No person shall disclose any information in respect of a criminal offence committed on a victim in any way that would allow the identification of a victim who is under 18 years of age or against whom was committed the criminal offence of murder ([Section 140](#) of the Penal Code), manslaughter ([Section 141](#) of the Penal Code), any of the criminal offences by which grievous bodily harm was caused, the criminal offence of endangerment by venereal disease ([Section 155](#) of the Penal Code), any of the criminal offences against pregnant women ([Section 159 through 162](#) of the Penal Code), the criminal offence of

human trafficking ([Section 168](#) of the Penal Code), any of the criminal offences against human sexual dignity ([Section 185 through 193](#) of the Penal Code), the criminal offence of abandonment of a child or entrusted person ([Section 195](#) of the Penal Code), maltreatment of an entrusted person ([Section 198](#) of the Penal Code), maltreatment of persons living in common dwellings ([Section 199](#) of the Penal Code), abduction of a child and persons suffering from mental disorders ([Section 200](#) of the Penal Code) or dangerous persecution ([Section 354](#) of the Penal Code).

(3) The disclosure is prohibited of visual images, video and audio recordings or other information pertaining to a main trial or public hearing that would allow the identification of the victim as referred to in [Subsection 2](#).

(4) The final judgment may not be published in the public media with the listing of the name or names, surname or residence of the victim as referred to in [Subsection 2](#). The presiding judge may, with regard to the victim and the nature and character of the criminal offence committed, impose further restrictions associated with the publication of a final convicting judgment for the purpose of adequate protection in the interests of such victim.

#### Section 8c

Pursuant to [Section 88](#) no person shall disclose information on the court order or interception performance and recording of telecommunications traffic without the consent of persons whom such information concerns or information derived thereof, data on telecommunications traffic detected on the basis of an order under [Section 88a](#), or information obtained by the surveillance of people and items under [Section 158d Subsection 2](#) and [3](#), if such information allows the identification of the person and if such were not used as evidence in proceedings before the court.

#### Section 8d

(1) Information subject to prohibition of disclosure under [Section 8a through 8c](#), may be disclosed to the necessary extent for the purposes of searching for missing persons, to achieve the purpose of criminal proceedings or if it is permitted by this Act. Provided it is justified by public interest, the stated information may also be disclosed if public interest takes precedence over the right to privacy of the person concerned; it is however necessary to pay due care in protecting the interests of a person younger than 18 years.

(2) Information subject to prohibition of disclosure under [Section 8a through 8c](#), may also be disclosed if the person to whom the prohibition of disclosure relates has granted their express consent to the disclosure of such information. If such person has died or was pronounced dead, the spouse, partner or a child of the deceased person, and in their absence their parents, are entitled to grant consent to the disclosure of information; in the case of a person younger than 18 years or a person denied legal capacity or with restricted legal capacity, their legal guardian. Consent to the disclosure of information may not be granted by a person who has committed a criminal offence against the person who died or was pronounced dead.

(3) Information subject to prohibition of disclosure under [Section 8a through 8c](#), may also be disclosed if the person to whom the prohibition of disclosure relates has died or was pronounced dead and there is no person entitled to grant consent to the disclosure of information under [Subsection 2](#).

#### Section 9

##### **Assessment of Preliminary Questions**

(1) Law enforcement authorities assess preliminary questions that arise in criminal proceedings separately; however, if there is a final decision of a court or any other public authority, law enforcement authorities are bound by that decision during proceedings unless it is an assessment of the guilt of the accused.

(2) Law enforcement authorities are not entitled to independently deal with preliminary questions relating to personal status that are decided in civil matter proceedings. If a decision on such question has not yet been issued, then such authorities must await the issuance thereof.

#### Section 9a

##### **Preliminary Questions within the Competence of the Court of Justice**

(1) The provisions of [Section 9](#) do not apply to preliminary questions that are to be decided exclusively by the Court of Justice established by European Community regulations (hereinafter referred to as "the Court of Justice").

(2) In the event that a court in proceedings under this Act shall submit an application for a decision on a preliminary question to the Court of Justice, it will issue a suspension decision.

(3) When submitting an application to the Court of Justice for a decision on a preliminary question, the court is governed by the relevant regulations governing proceedings before the Court of Justice.

(4) The decision of the Court of Justice on a preliminary question is binding on all law enforcement authorities.

#### Section 10

##### **Exception from Competencies of Law Enforcement Authorities**

(1) Pursuant to this Act, persons that enjoy privileges and immunities under the law or international law shall be exempt from the competencies of the law enforcement authorities.

(2) Should any doubt arise as to whether or to what extent a person may be excluded from the competencies of the

law enforcement authorities under this Act, the Supreme Court, shall decide on it upon the petition of the public prosecutor, court or the party in question.

#### Section 11

##### **Inadmissibility of the Criminal Prosecution**

(1) The criminal prosecution may not be commenced and if such was already commenced, it may not continue and must be terminated

- a) if the President of the Republic orders so, thus utilising his right to grant pardon or amnesty,
- b) if the criminal prosecution is statute-barred,
- c) if such prosecution concerns a person who is exempt from the competencies of the law enforcement authorities ([Section 10](#)) or a person that the law requires an official consent for their prosecution if such consent was not awarded by an entitled authority,
- d) if it concerns a person who is below the age of criminal responsibility,
- e) if it is against a person who has died or has been declared deceased,
- f) if it is against a person who had been previously prosecuted for the same act that resulted in a final judgment of a court or decision of a court, or any other entitled authority that was finally terminated, provided the decision was not revoked during the prescribed proceeding,
- g) if an earlier prosecution of a person for the same act was completed by a final decision on a settlement approval, if the decision was not revoked during the prescribed proceeding,
- h) if an earlier prosecution of a person for the same act was completed by a final decision on the referral of a matter with the suspicion that the act is an offence, other tort or administrative disciplinary offence, if the decision was not revoked during the prescribed procedure,
- i) if the criminal prosecution is subject to the consent of the victim and such consent was not given or was withdrawn, or
- j) if it is stipulated by an international treaty to which the Czech Republic is bound.

(2) If the reason given in [Subsection 1](#) relates only to certain of the individual offences of a continued criminal offence, such does not prevent a criminal prosecution on the remaining parts of such actions.

(3) A criminal proceeding that was terminated for reasons as listed in [Subsection 1 Paragraphs a\), b\)](#) or [i\)](#) will nevertheless continue if the accused declares, within three days of the date when the accused was notified of the decision to terminate the criminal prosecution, that they wish the trial to continue. The accused must be instructed on this.

(4) Pursuant to [Subsection 1 Paragraphs f\), g\)](#) and [h\)](#), the decisions are the decisions of courts and other judicial authorities of the Member States of the European Union.

#### Section 11a

Criminal prosecutions against the same person and for the same act may not be commenced unless the public prosecutor, in the summary preliminary hearing

- a) decides on the approval of the settlement and defers the case, or
- b) decides to conditionally defer the submission of the punishment proposal and the suspect was proved or deemed proven competent.

#### Section 12

##### **Interpretation of Certain Terms**

(1) Law enforcement authorities are understood to be the court, the public prosecutor and the police authority.

(2) The police authorities are bodies of the Police of the Czech Republic. In the case of proceedings regarding the criminal offences of police officers and employees associated with the Police of the Czech Republic, the status of the police authority resides with the Internal Affairs of the Police of the Czech Republic. In the proceedings of criminal offences committed by members of the Armed Forces, the same status resides with the appointed bodies of the Military Police. In the proceedings of criminal offences committed by members of the Prison Service of the Czech Republic, such status resides with the delegated authority of this service. In the proceedings of criminal offences committed by members of the Security Intelligence Service, it is the delegated authority of the Security Intelligence Service. In the proceedings of criminal offences committed by members of the Foreign Relations and Information Office, it is the delegated authorities of the Foreign Relations and Information Office, and in the proceedings of criminal offences committed by members of Military Intelligence, it is the delegated authority of Military Intelligence. This does not affect the entitlement of the public prosecutor under [Section 157 Subsection 2 Paragraph b\)](#). The status of the police authority also resides with the appointed customs authorities in the proceedings on criminal offences committed by a breaching of customs regulations and regulations on the import, export or transit of goods, even in cases of criminal offences by the armed forces or armed corps and services, and by a breaching of laws in the placement and purchase

of goods in Member States of the European Community, if such goods are transported across the national borders of the Czech Republic, and in cases of tax infringements in the case that the customs authorities manage tax under special legal regulations. Unless stipulated otherwise, the listed authorities are entitled to all acts of criminal procedure falling under the scope of the police authority.

(3) Where the Act refers to the court, based on the nature of the matters in question, this is understood to be the District Court, County Court, High Court or the Supreme Court of the Czech Republic (hereinafter referred to as "the Supreme Court").

(4) Where the Act refers to the district court, this is understood to be the District Court or another court with the same jurisdiction; where the Act refers to a County Court, it is also understood to be a Municipal Court in Prague.

(5) Where the Act refers to the district public prosecutor it is also understood to be the public prosecutor or another public prosecutor with the same jurisdiction; where the Act refers to the county public prosecutor, it is also understood to be the Municipal Prosecutor in Prague.

(6) The party to an action and victim, and as part of court proceedings also a public prosecutor and a public representative, refer to a person against whom a criminal proceeding is being conducted; the same position as the party also belongs to another person upon whose request or petition the proceeding is pending or who submitted an appeal.

(7) Unless the nature of the case indicates otherwise, the accused persons shall also be the defendant and the convicted person.

(8) After the appointment of the main trial, the accused becomes the defendant.

(9) The convicted person is a person against whom a convicting judgment was issued, which then came into full force and effect.

(10) The criminal proceeding means a procedure under this Act, the criminal prosecution stages of the proceedings from the initial criminal prosecution to the full force and effect of the judgment or the decision of another law enforcement authority and the preliminary hearing means a section of proceedings under this Act from the drawing up of the record on the commencement of the criminal proceedings or the performance of urgent and non-recurring acts which immediately precede it, and unless these procedures are performed, from the commencement of the prosecution to the indictment, referral to another institution or the termination of the criminal prosecution or until the decision or the occurrence of other factors with the effect of the termination of criminal prosecution prior to the indictment, including the clarification and review of facts indicating that a criminal offence had been committed and the investigation thereof.

(11) If the accused continues the conduct for which the prosecution was based, even after charges have been served, the conduct of such action is considered to be a new action.

(12) An action under this Act shall include the individual incidence of a continued criminal offence, unless it is expressly stipulated otherwise.

## CHAPTER TWO

### The Court and Persons Involved in the Proceedings

#### SUBDIVISION ONE

##### Competency and Jurisdiction of the Courts

###### Section 13

##### Enforcement of Criminal Justice

Criminal jurisdiction is performed by district courts, county courts, high courts and the Supreme Court.

##### Heading Omitted

###### Section 14

##### Repealed

###### Section 15

##### Repealed

##### Material Jurisdiction

###### Section 16

Unless this Act stipulates otherwise, the proceeding in the first instance is conducted by the District Court.

## Section 17

(1) The County Court performs in the first instance of proceedings for criminal offences when the law stipulates a prison sentence with the lower limit of no less than five years, or if they are able to impose an exceptional sentence. The County Court performs proceedings in the first instance in the case of criminal offences, such as

a) of unauthorised removal of tissues and organs, illegal handling of tissues and organs, taking tissue, organs and performing transplantation for a fee, the illegal handling of human embryos and human genomes, or human trafficking,

b) committed by means of investment instruments that are admitted for trading on a regulated market or for which admission to trading on a regulated market was requested, or counterfeits and pirate copies if their legal character can cause substantial damage or obtain substantial benefits,

c) of infringement of competition rules, manipulation of the rate of investment instruments and misuse of information and position in the trade, damage to the financial interests of the European Community, infringement of export control of goods and dual use technologies, breach of duties in the export of goods and dual use technologies, distortion of data and failure to keep data records on the export of goods and dual use technologies, the performance of foreign trade in military material without permission or license, breach of obligations in connection with issuing permits and licenses for foreign trade in military material, distortion and failure to keep data records on foreign trade in military material, development, manufacture and possession of prohibited weaponry and

d) of sabotage, abuse of representing the State and international organisation, espionage, threat to classified information, cooperation with an enemy, relations threatening the peace, the use of prohibited means of combat and clandestine warfare, looting in the area of military operations,  
even if the lower limit of prison sentence is less.

(2) The County Court performs proceedings in the first instance in the case of individual incidences of a continued criminal offence if, pursuant to the procedure of [Section 45 of the Penal Code](#) a decision on the guilt of the criminal offences listed in [Subsection 1](#) comes into consideration during this proceeding.

### Local Jurisdiction

#### Section 18

(1) The court in whose jurisdiction the criminal offence was committed is responsible for the performance of proceedings.

(2) If the crime scene cannot be found or the criminal offence was committed abroad, proceedings are conducted by the court in whose jurisdiction the accused lives, works or resides; if such places cannot be identified or is outside the Czech Republic, proceedings are performed by the court in whose jurisdiction the criminal offence was uncovered.

#### Section 19

### Repealed

### Joint Proceedings

#### Section 20

(1) All accused whose criminal offences and crimes are mutually related, for all incidences of continued or mass crimes and for all parts of the continued crime, joint criminal proceedings shall be performed, unless there are important reasons for the prohibition thereof. In the case of other crimes, joint proceedings are performed when such an approach is appropriate in terms of speed and cost management.

(2) Joint proceedings on criminal offence, which should be conducted by a single judge, and proceedings on a criminal offence, which should be conducted by a court, shall be held by the court.

#### Section 21

(1) Joint proceedings are conducted by the County Court, provided it is competent to conduct proceedings on at least one of the criminal offences.

(2) Joint proceedings are held at the court that is competent to hold the proceedings against the offender of a criminal offence or for the most serious criminal offence.

#### Section 22

### Jurisdiction of Several Courts

If under the preceding provisions, jurisdiction is given to several courts, proceedings are conducted by the court in which the public prosecutor filed an indictment or in which the case was ordered by a higher court.

#### Section 23

### Exclusion and Joinder

(1) To advance the proceedings or for other important reasons the proceedings of a certain criminal offence or against any of the accused may be excluded from the joint proceedings.

(2) The jurisdiction of the court which excluded the case does not change; however, if the County Court excludes a case which would otherwise be held at District Court proceedings, it may refer it to this court.

(3) If the conditions for joint proceedings exist, the court may join such joint proceedings and co-decide the case where separate indictments were made.

#### Section 24

### **Decision on Jurisdiction of Courts**

(1) Should any doubts about the jurisdiction of the court arise, the decision of which court has the jurisdiction to hear the case is made by the court that is the closest common higher court to the court at which the indictment was filed or which the case was referred to in accordance with [Section 295](#) or which was ordered so by a higher court and the court which is to be relevant based on the decisions on the proposal of the matter for the decision on the jurisdiction [[Section 188 Subsection 1 Paragraph a](#)], [Section 222 Subsection 1](#), [Section 257 Subsection 1 Paragraph a](#)]. Simultaneously, it is only bound by the legal considerations that are crucial in determining the jurisdiction ([Section 16 through 22](#)). If the court that the case was submitted to for the decision is not a higher court that is competent under law, it shall refer the case to decide on the jurisdiction to the court that is both a higher court to the court proposing the case and the court that is competent under law.

(2) The court deciding on the jurisdiction of the courts may also decide to withdraw and order the case on the grounds referred to in [Section 25](#).

### **Heading Omitted**

#### Section 25

### **Withdrawal and Ordering of the Case**

In the case of important reasons, the matter may be withdrawn from the competent court and ordered to another court of the same type and degree; the court, which is the closest higher court to both of the courts is the one that decides on the withdrawal and ordering of cases.

#### Section 26

### **Jurisdiction of Courts in Preliminary Hearing**

(1) The District Court in whose jurisdiction the public prosecutor filed the relevant petition is the competent court to perform acts in the preliminary hearing.

(2) The court in which the public prosecutor filed a petition under [Subsection 1](#), becomes competent to perform all acts of the court throughout the entire preliminary hearing, unless the matter is referred elsewhere due to the jurisdiction of another public prosecutor employed outside the jurisdiction of this court.

## **SUBDIVISION TWO**

### **Auxiliaries**

#### Section 27

### **Court Reporter**

The official transcript of the actions of law enforcement authorities is usually performed by a sworn court reporter. If a court reporter was not invited, the transcript is made by the person performing the action. Where a sound recording is made during the proceedings before the court and as a result of this the presiding judge does not dictate the transcript, the court reporter, if necessary, is a magistrate or an officer of the court.

#### Section 27a

### **Magistrates**

Simple decisions, with the exception of verdicts of guilty and punishment, are usually issued and performed, as are any administrative tasks associated with the proceedings, by a magistrate; a special Act shall set out their scope and determine what action the magistrate may perform independently and when on the authority of the judge.

#### Section 27b

### **Probation Officer**

(1) An official of the Probation and Mediation Services (hereinafter referred to as "probation officer") shall exercise supervision over criminal proceedings involving the accused in both positive guidance and assistance to the accused person

and also the control of their conduct, and in cases where supervision is not ordered, they also perform actions leading to the accused being able to lead a full life, once it is decided

- a) on the release of the accused from custody while still under the pronouncement of the supervision,
- b) on the conditional suspension of criminal prosecution,
- c) on conditional suspension of punishment with supervision,
- d) on a conditional sentence including conditional sentence with supervision,
- e) on conditional release from serving prison sentence, including conditional release from serving a prison sentence while pronouncing the supervision, or
- f) on imposing a sentence of community service or a residency ban while pronouncing reasonable restrictions and reasonable obligations.

(2) The probation officer may be a public prosecutor and, in proceedings before a court, the presiding judge, also in charge of identifying information on the accused person and their social circumstances and creating conditions for the decision approving the settlement and the conditional suspension of criminal prosecution. Under the conditions stipulated by a special Act, they may perform various tasks even without such instruction. They may exercise various enforcement actions, in particular in cases where the punishment was not associated with prison sentence, or where the convicted was conditionally released from serving a prison sentence or in the performance of different types of protective measures during the proceedings before a court.

(3) Further conditions under which the probation officer shall exercise their competencies are stipulated by a special Act.

#### Section 27c

### **Assistant Judge of the Supreme Court**

The assistant judge of the Supreme Court performs individual acts of criminal proceedings on the authority of the Supreme Court judge.

### **Interpreters and Translators**

#### Section 28

(1) If the need to translate the content of a document, testimony or other procedural act arises, or if the accused makes use of the rights referred to in [Section 2 Subsection 14a](#) translator is invited; the same applies to the provision of an interpreter for a person with whom it is impossible to communicate other than via one of the communication systems for deaf and deaf-blind persons. The interpreter may also be the court reporter. Unless the accused indicates the language that they understand or indicates a language or dialect that is not the language of his nationality or the official language of the country of which they are citizens, and there is no person registered for such language or dialect in the register of interpreters, the law enforcement authority shall appoint an interpreter for the language of their nationality or the official language of the country of which they are citizens. In the case of a person without citizenship, then such refers to the State where they reside, or the state of their origin.

(2) Subject to the conditions presented in [Subsection 1](#) the accused person must be provided with a written resolution to initiate the criminal prosecution, resolution of custody, indictment, petition for punishment, judgment, criminal warrant, decision on appeal and on the conditional suspension of criminal prosecution; this does not apply if after the instructions the accused person declares that the translation of such a decision is not required. If such a decision relates to several accused persons, only the section of the decision that directly concerns the person in question is translated to them, provided it can be separated from other statements of the decision and their justifications. Translating decisions and the delivery thereof is ensured by the competent law enforcement authority.

(3) If the delivery of the decision referred to in [Subsection 2](#) is associated with the beginning of the deadline and a written translation of such a decision is required, the decision is deemed delivered upon the delivery of the written translation.

#### Section 29

(1) Special regulations apply to the provisions of the interpreter, capacity for this function, and on the right to deny the performance of interpreting, on the oath and reminder of the obligations prior to the interpretation, as well as reimbursement of cash expenses and remuneration for the interpreting.

(2) The amount of compensation and reward of an interpreter is determined by the authority that invited the interpreter and in the proceedings before a court, the presiding judge, without undue delay or within two months of invoicing the compensation and reimbursement of an interpreter. If those who invited the interpreter disagree with the amount of compensation and reward charged for the interpreter, such must be decided by a resolution. A complaint which has a suspensive effect is admissible.

(3) Compensation and remuneration of an interpreter is to be paid without undue delay after their authorisation or within 30 days.

### **SUBDIVISION THREE**

## Exclusion of Law Enforcement Authorities

### Section 30

(1) The judge or an associate judge, public prosecutor, police authority or a person employed by it who gives way to a reasonable doubt that in relation to the case or persons who are directly related to it, to their attorneys, legal representatives and agents, or due to their relationship to other law enforcement authorities they cannot make impartial decisions, then they are excluded from carrying out acts of criminal proceedings. Actions that were taken by the excluded persons may not be the basis for decisions in the criminal proceedings.

(2) A judge or an associate judge is also excluded from carrying out acts of criminal proceedings if they were active in the case as a public prosecutor, police authority, community representative, defence counsel or as an agent of the party to an action and the victim. After the indictment, the judge who in the matter under discussion ordered the home search warrant or an order for arrest or decided in the matter of a warrant for the custody of a person against whom an indictment was subsequently filed, is excluded from carrying out acts of criminal proceedings.

(3) The judge or an associate judge who participated in the decision making at a lower court are also excluded from the decision making process at the higher court and vice versa. The public prosecutor who made the contested decision or gave their consent or order is excluded from the decision making process on the issue of a complaint to the higher authority.

(4) The judge who took part in the decision making process of the earlier proceedings is excluded from the proceedings on the review of the order for the interception and recording of telecommunications traffic. The judge who participated in the decision making process on the review of the order for the interception and recording of telecommunications traffic is further excluded from the decision making process of the subsequent proceedings.

### Section 31

The reasons for the exclusion presented in [Section 30](#) shall be decided by the authority that relates to these reasons even without a proposal. The removal of a judge or an associate judge, if they rule in the court, shall be decided on by the court.

(2) A complaint against a decision under [Subsection 1](#) is admissible.

(3) An authority immediately higher than the authority which issued the contested decision shall decide on the complaint.

### Section 31a

The reasons for which the magistrate or a probation officer is excluded from the execution of the acts of the criminal proceeding and the procedure during the decision making process on the exclusion is stipulated by a special Act.

## SUBDIVISION FOUR

### Accused Person

#### Section 32

### Accused Person

The person who is suspected of having committed a criminal offence may be deemed accused and the means prescribed by this Act may be used against them only if a criminal prosecution against them was commenced ([Section 160](#)).

#### Section 33

### Rights of Accused Person

(1) The accused has the right to comment on all the facts that found him guilty and they are not obliged to testify on the evidence therein. They may present circumstances and evidence for their defence, to make proposals, and submit applications and appeals. They have the right to choose the defence counsel and to confer with them during acts undertaken by law enforcement authorities. However they may not consult with their defence counsel on how to respond to a question once the hearing has commenced. They may request to be interrogated in the presence of their counsel, and that defence counsel can participate in other acts of the preliminary hearing ([Section 165](#)). If they are in custody or serving a prison sentence, they may consult their defence counsel without the presence of a third party. The accused has these rights even if they are denied legal capacity or if their legal capacity is restricted.

(2) Should the accused person prove that they do not have enough funds to pay the costs of the defence, the presiding judge or a judge during a preliminary hearing shall decide whether they are entitled to the defence counsel free of charge or at a reduced fee. If it appears from the evidence gathered that the accused person does not have sufficient funds to pay the costs of the defence, the presiding judge and during the preliminary hearing the judge, upon the petition of the public prosecutor may, if necessary to protect the rights of the accused, decide on an entitlement to a defence free of charge or at a reduced fee. In the cases referred to in the first and second sentence of the costs of the defence, such costs are in whole or in part covered by the state.

(3) In addition to the accused and his defence counsel, the persons referred to in [Section 37 Subsection 1](#) are also entitled to submit a proposal for a decision under [Subsection 2](#). The proposal for a decision under [Subsection 2](#) including [annexes](#), which should prove its merit, is submitted by the accused during the preliminary hearing through the public prosecutor

and in proceedings before the court to the court that conducts the proceeding in the first instance. A complaint against the decision under [Subsection 2](#), which has a suspensive effect, is admissible.

(4) If a final decision under [Subsection 2](#) entitled the accused to a free defence or defence for a reduced fee and the accused requests the appointment of the defence counsel, the defence counsel shall be appointed immediately. The defence counsel shall set out and if the grounds for a decision under [Subsection 2](#) are no longer valid the presiding judge, and during the preliminary hearing the judge shall revoke such provisions. Then the provisions of [Section 38 Subsection 2](#), [Section 39 Subsection 2](#), [Section 40](#) and [40a](#) shall apply accordingly.

(5) All law enforcement authorities are obligated to instruct the accused of his rights and provide the accused with the full opportunity to exercise such rights.

#### Section 34

### **The Legal Representative of the Accused**

(1) The legal representative of the accused, who is denied legal capacity or whose legal capacity is restricted, is entitled to represent the accused person, in particular to choose their defence counsel, put forward proposals on their behalf, submit a request and appeal for the accused; the legal representative is also entitled to participate to those acts which the accused may participate in. The legal representative can exercise these rights for the benefit of the accused person even against their will.

(2) In cases where the legal representative of the accused can not exercise the rights referred to in [Subsection 1](#) and is in danger of default, the presiding judge and, in preliminary hearing the public prosecutor, may exercise these rights for the accused in order to appoint a guardian. A complaint against the decision on the appointment of a guardian is admissible.

#### **SUBDIVISION FIVE**

### **Defence Counsel**

#### Section 35

### **Defence Counsel**

(1) The defence counsel in criminal proceedings can only be an attorney. The defence counsel may be represented by an articulated clerk for the purpose of individual acts of criminal proceedings, except for proceedings before the County Court as the court in the first instance, the High Court, and the Supreme Court.

(2) The defence counsel can not be an attorney against whom there was or is a pending criminal prosecution, during which they would represent the defence of the accused and due to which they would consequently be in the position of an accused, witness, or a party to an action.

(3) The defence counsel in criminal proceedings can not be an attorney who testifies as a witness, gives expert opinion, or is acting as an interpreter.

### **Necessary Defence**

#### Section 36

### **Heading Omitted**

(1) The accused must have a defence counsel during the preliminary hearing

a) if they are in custody, are serving a prison sentence, or are under observation in a medical centre ([Section 116 Subsection 2](#)),

b) if they are denied legal capacity or if their legal capacity is restricted, or

c) if it is a proceeding against a fugitive.

(2) The accused must also have a defence counsel if the court and, in the preliminary hearing, the public prosecutor deems it necessary due to any physical or mental defects of the accused which gives them good reason to doubt their capacity to defend themselves properly.

(3) If there is a proceeding on a criminal offence for which the law stipulates a prison sentence with a maximum of more than five years, the accused must have a defence counsel during the preliminary hearing.

(4) The accused must also have a defence counsel

a) during the main trial held under the simplified proceeding against the detainee,

b) during the proceedings when a decision on the imposition or change in the provision of detention or the imposition or modification of protective treatment, with the exception of protective rehabilitation for alcoholism, is made,

c) if they are to comment on whether they waive the right to the application of the special principle in proceedings for extradition from a foreign State,

- d) in proceedings for extradition to a foreign State or transfer to another EU Member State,
- e) in proceedings for further transfer to another EU Member State, or
- f) in proceedings for the recognition and enforcement of foreign decisions, in proceedings for the recognition and enforcement of decisions of another Member State of the European Union on the implementation of financial sanctions that imposed a financial penalty or fine, and in proceedings for the recognition and enforcement of a decision of another Member State of the European Union on the forfeiture or confiscation of property.

#### Section 36a

(1) In enforcement proceedings in which a court decides in a public hearing, the convicted person must have a defence counsel,

- a) if they are denied the legal capacity or if their legal capacity is restricted,
- b) if they are in custody, or
- c) if there is any doubt about their capacity to properly defend themselves.

(2) In complaint proceedings for violation of the law, in extraordinary appeal proceedings and in proceedings on an application for a retrial permit, the convicted must have a defence counsel,

- a) in the cases referred to in [Section 36 Subsection 1 Paragraphs a\) or b\)](#),
- b) if it is about a criminal offence for which the law stipulates prison sentence for a maximum of more than five years,
- c) if there is any doubt about their capacity to properly defend themselves,
- d) if they are proceedings against a convicted person who had died.

#### Section 37

##### **Selected Defence Counsel**

(1) If the accused person does not exercise the right to choose the defence counsel and neither does their legal representative, then it may be chosen by their direct relative, their sibling, adoptive parent, adoptive child, spouse, partner, or a party to an action. If the accused is denied legal capacity or if their legal capacity is restricted, this can be done even against their will.

(2) The accused may choose a defence counsel other than the one appointed them or chosen by a person entitled to do so. When the change of defence counsel is announced so that the defence counsel is notified of the change within the statutory period, the law enforcement authorities shall notify the newly elected defence counsel from the date such notification was served. Otherwise, the defence counsel previously appointed or selected, unless excluded from the defence, are obligated to carry out the defence until the later elected defence counsel personally assumes the case.

(3) If the accused chooses two or more defence counsels and does not notify the law enforcement authorities which of these defence counsels was given the authority for the admission of documents and for advising on the acts of criminal proceedings, the presiding judge and, in preliminary hearing, the public prosecutor, shall determine them; their decision shall be notified to all elected defence counsels.

#### Section 37a

(1) The presiding judge and in preliminary hearing, the judge, may decide to exclude the attorney as the selected defence counsel from the defence even without petition

- a) for the reasons set out in [Section 35 Subsection 2](#) or 3, or
- b) if the defence counsel repeatedly fails to participate in actions of criminal proceedings in which their presence is necessary or when they do not ensure the participation of their representative despite the fact they were duly and timely informed about such actions.

(2) The removal of an attorney as the elected defence counsel shall be decided by the presiding judge, and in preliminary hearing, the judge, even if the defence counsel performs the defence of two or more co-defendants whose interests are in conflict during the criminal proceedings. The defence counsel, which was excluded on these grounds, can not perform the defence of any of the accused in the same case any further.

(3) Pursuant to [Subsection 1](#) or [2](#), the presiding judge and in preliminary hearing, the judge, will allow the accused and the defence counsel to comment on the matter before making their decision and they shall take such comments into account. If they decide on the exclusion of the defence counsel, they will allow the accused person to choose a different defence counsel within a reasonable deadline; if it is a necessary defence, they shall proceed under [Section 38 Subsection 1](#).

(4) A complaint against a resolution under [Subsection 1](#) and [2](#), with a suspensive effect, is admissible.

##### **Appointed Defence Counsel**

#### Section 38

(1) If the accused does not have a defence counsel when it is a legal requirement ([Section 36](#) and [36a](#)), a deadline is determined for them to choose one. If a defence counsel is not selected within that period, a defence counsel will be appointed immediately for the period of the necessary defence.

(2) If there are several defendants, usually a common defence counsel shall be appointed to those whose interests are not in conflict with the criminal proceedings.

#### Section 39

(1) A defence counsel shall set out and, once the grounds for the necessary defence expired, the presiding judge and, in the preliminary hearing, the judge shall revoke the provisions.

(2) For the purpose of appointing a defence counsel, the court maintains an alphabetically ordered list of attorneys (hereinafter referred to as "list") who consent to the performance of the defence as appointed defence counsels of the court and have their office established in the district or office of the court. The District Courts in Prague consider the place of the office of attorneys as the city of Prague. If it is not possible to appoint an attorney from the list, the court shall appoint an attorney from the list of a higher court.

(3) Attorneys listed on the list are appointed as a defence counsel for individual accused in individual sequence, following the alphabetical order of list. If an attorney is appointed in this way where there are reasons for their exclusion from the defence, or if the attorney could not be appointed for other reasons, the next attorney without such reasons for exclusion shall be appointed.

(4) If a joinder of the joint hearing and decision occurs and the accused was provided with a defence counsel for each of these cases, the presiding judge and in preliminary hearing, the judge, shall revoke the provisions of those defence counsels who were appointed later. If there is a simultaneous appointment of defence counsels, they shall revoke the appointment of defence counsels, who were appointed in proceedings on a less serious criminal offence.

#### Section 40

The appointed defence counsel is obligated to assume the defence. However, in the case of important reasons, the defence counsel may, at their request or at the request of the accused, be released from the obligation to defend and a different defence counsel shall instead be appointed. The presiding judge and in the preliminary hearing, the judge, shall relieve the obligations of defending in proceedings before the court.

#### Section 40a

(1) For the reasons referred to in [Section 37a Subsection 1](#) or [2](#), or if the appointed defence counsel has not performed defence for an extended period of time, the presiding judge and in preliminary hearing, the judge, decides on the relief from the obligation of defending in court; the accused and the defence counsel may comment on the matter prior to the court's decision.

(2) A complaint against a resolution under [Subsection 1](#) which has a suspensive effect, is admissible.

#### Section 41

##### **Rights and Obligations of the Defence Counsel**

(1) The defence counsel is obligated to provide the necessary legal assistance to the accused, to efficiently serve the interests of the ways and means of defence as provided by law, in particular ensuring that the facts were properly and timely clarified during the proceedings that relieve the accused of guilt or mitigate their guilt, and thereby contribute to clarify and correct the rules on the matter.

(2) The defence counsel is entitled to make proposals for the defendant, to submit applications and appeals, inspect documents ([Section 65](#)), and participate in investigative acts in accordance with the provisions of this Act. They are entitled to speak to the accused person, who is in custody, to the extent stipulated by [Section 33 Subsection 1](#).

(3) The defence counsel is entitled to attend all actions which the accused may participate in proceedings before the court.

(4) If the accused is denied legal capacity or if their legal capacity is restricted, the defence counsel can perform the entitlements referred to in [Subsection 2](#) and [3](#), also against the will of the accused.

(5) Unless the authorisation of the defence counsel during their appointment or selection is defined otherwise, it shall expire at the conclusion of the criminal prosecution. Even if the entitlement has thereby expired, the defence counsel is entitled to make an application for extraordinary appeal on behalf of the defendant and take part in the proceedings on the extraordinary appeal at the Supreme Court and apply for a pardon and the deferral of sentence.

(6) The defence counsel has the right in all stages of criminal proceedings to request a copy or to copy the transcript ([Section 55](#)) of any act of criminal proceedings in advance. The law enforcement authorities ([Section 12 Subsection 1](#)) are obligated to comply with such request; they may refuse only if such is not technically possible. They are obligated to pay the related costs to the State.

## **SUBDIVISION SIX**

### **Party to an Action**

#### Section 42

(1) The person whose item or other asset was confiscated or is due to be confiscated under the proposal (party to an action) must be given the opportunity to address the issue; they may be present at the main trial and public hearing, make proposals, inspect documents ([Section 65](#)), and submit appeals admissible by this Act.

(2) The law enforcement authorities are obligated to instruct the party to an action of their rights and provide them with the full opportunity to exercise such rights.

(3) If the party to an action is denied legal capacity or if their legal capacity is restricted, their rights shall be exercised by their legal representative in accordance with this Act.

## **SUBDIVISION SEVEN**

### **Victim**

#### **Entitlement of the victim and the performance of damage or non-material damage claims or for the surrender of unjust enrichment**

#### Section 43

(1) A person, where the criminal offence caused bodily harm, damage or non-material damage (victim), or those at the expense of whom the offender enriched themselves through a criminal offence, has the right to file proposals for additional evidence, inspect documents ([Section 65](#)), attend the main trial and the public hearing held on an appeal, and to comment on the matter before the end of proceedings.

(2) The victim is not a person who feels that they are morally or otherwise damaged by the criminal offence but the resulting damage is not caused by the fault of the offender or its origin is not causally related to the criminal offence.

(3) The victim is also entitled to petition for the court to impose an obligation on the defendant in the convicting judgment to compensate in monetary terms the damage or non-material damage caused to the victim by the commission of the criminal offence, or to surrender any unjust enrichment which the defendant obtained at the victim's expense through a criminal offence. The petition must be filed no later than at the main trial before the commencement of the evidence ([Section 206 Subsection 2](#)). The petition must be clear on what grounds and in what amount the claim for damage or non-material damage is being applied or on what grounds and to what extent the claim is being applied for the surrender of unjust enrichment.

(4) The victim may also surrender their procedural rights in an explicit declaration addressed to the law enforcement authority that is granted to them by this Act.

#### Section 44

(1) The entitlement of the victim can not be exercised by those who are prosecuted in criminal proceedings as co-defendants.

(2) If the number of victims is extremely high and the individual performance of their rights could threaten the rapid progression of the criminal prosecution, the presiding judge and in the preliminary hearing, upon the petition of the public prosecutor, the judge, shall decide that the victims may exercise their rights in criminal proceedings only through a common agent, whom they choose. The decision shall be announced to the victims who have already raised a claim for damages, or non-material damage, or surrenders any unjust enrichment, following the notification to the other victims during the first act of criminal proceedings that they shall be summoned for or which they are advised on, in the proceedings before the court by the court itself, and in preliminary hearing, the public prosecutor. If the total number of agents has increased to more than six and the victims are unable to agree, the court shall make the choice with regard to the interests of the victims. The common representative shall exercise the rights of the victims, who they represent, including a claim for damages, or non-material damage, or surrenders any unjust enrichment, in the criminal proceedings.

(3) An application under [Section 43 Subsection 3](#) can not be filed if the claim has already been decided on in a civil or other relevant proceeding.

#### Section 44a

(1) If the law enforcement authority ascertains that the victim or witness is in danger in relation to the residence of the accused or convicted at large, the court shall instruct the victim or witness on the possibility to request information about

- a) the release of the accused from custody or their escape,
- b) the release of the convicted from serving a prison sentence or their escape,
- c) the release of the convicted from treatment or their escape, or
- d) the release of the convicted from secure detention or their escape.

(2) Pursuant to podle [Subsection 1](#), the victim or the witness may submit their application to the court, and during preliminary hearing to the public prosecutor. If the convicted person is serving a prison sentence, an application under [Subsection 1](#) is submitted to the court that decided in the first instance.

#### Section 45

(1) If the victim is denied legal capacity or if their legal capacity is restricted, their rights are exercised by their legal representative in accordance with this Act.

(2) In cases where the legal representative of the victim is not able to exercise their rights as referred to in [Subsection 1](#) and is in danger of default, the presiding judge, and in criminal proceedings, the public prosecutor, shall appoint a guardian for exercising the rights of the victim. A complaint against the decision on the appointment of a guardian is admissible.

(3) If the claim is for damages or non-material damage ([Section 43 Subsection 3](#)), the rights which this Act confers on the victim are also transferred to their legal representative.

#### Section 45a

All documents intended for the victim shall be delivered to the address listed by the victim. If they have an agent, it is delivered to them alone; this does not apply if the victim is being called to personally do something.

#### Section 46

The law enforcement authorities are obligated to instruct the victim on their rights and provide them with the full opportunity to exercise such rights.

### Victim Claim Assurance

#### Section 47

(1) If there is a reasonable concern that satisfaction of the victim's claim for compensation of the damage or non-material damage caused by a criminal offence, or for the surrender of unjust enrichment obtained through a criminal offence, will be obstructed or hindered, the claim may be secured through the property of the defendant up to the probable amount of damage or non-material damage, or up to the probable extent of unjust enrichment.

(2) The impoundage referred to in [Subsection 1](#) shall be decided on by the court upon the proposal of the public prosecutor or the victim, and in the preliminary hearing, public prosecutor upon the proposal of the victim. The public prosecutor is entitled to assure the claim even without the proposal of the victim in preliminary hearing, if such is required to protect their interests, especially if there is a risk of default.

(3) If the victim is aware that the accused owns real estate or owns any movable assets located outside their place of permanent or any other residence, they shall state, if possible, already in the proposal to secure their claim for compensation of the damage or non-material damage, or surrenders any unjust enrichment, where such property is located.

(4) The court and in preliminary hearing, the public prosecutor, shall prohibit the accused from dealing with the property that is mentioned in the resolution of impoundage or which will be listed during the performance of such a decision; they will also prohibit the accused from transferring the property to someone else or mortgaging it after the resolution was made and instruct them to advise the court on who has the first refusal or any other right to the property within 15 days of the announcement of the resolution, with the instruction that otherwise the defendant is responsible for the damages caused.

(5) A claim that can not be applied in criminal proceedings can not be assured. Items that can not be distrained by the performance of the court order under civil law cannot be used to enforce the claim. The financial benefits of social welfare, benefits in material need, and social benefits for housing and social security benefits paid to the accused under a special Act once do not represent impoundage, and nor do

a) receivables of the accused for the payment of remuneration from employment or a similar relationship,

b) receivables of the accused to pay maintenance,

c) receivables of the payment of sickness benefits and pension insurance, and

d) social benefits, which are not one-off payments

to the amount of the total monthly housing costs justified by special legal regulations as evidenced by the accused and the subsistence minimum stipulated under special legal regulation for the accused person and the persons whose education and maintenance the accused is responsible for, unless they have own sources of income.

(6) As long as the impoundage is effective, all legal acts of the accused concerning the impounded property, with the exception of acts aimed at preventing imminent damages, are ineffective.

(7) The property of the accused, which is subject to the decision on the impoundage referred to in [Subsection 1](#) and [2](#) may be dealt with in the context of enforcement only with the prior consent of the court, and in preliminary hearing, the public prosecutor; this does not apply if the enforcement is carried out to satisfy the receivables of the State.

(8) Third party rights to the impounded property may be applied under special legal regulation.

(9) The victim must always be advised on the assurance of their claim with the reasons for which the impoundage

under [Section 48 Subsection 1](#) shall be revoked.

(10) Enforcement of the decision to assure the claim of the victim and the procedure in the management of the impounded property is stipulated by special legal regulation.

#### Section 47a

(1) The court and in preliminary hearing, the public prosecutor, leaves the performance of impounding acts or revokes such if the accused or, with their consent, another person deposits a monetary guarantee of the amount corresponding to the probable claim for the right to compensation of the damage or non-material damage, or surrenders any unjust enrichment of the victim to the bank account of the court; the other person must be aware of the substance of the allegations and the facts that led or could lead to the impoundage. If the monetary guarantee was lower, the court and in preliminary hearing, the public prosecutor, shall assure the impoundage of the accused to the extent to which the probable victim's claim for compensation of damages, or non-material damage, or surrenders any unjust enrichment, is not given a monetary guarantee.

(2) The court and in preliminary hearing, the public prosecutor, shall revoke or restrict the monetary guarantee under [Subsection 1](#) if any grounds for claiming damages, or non-material damage, or surrenders any unjust enrichment of the victim lapsed or if it is clear that a claim for damages of the victim in criminal proceedings may be granted or are considerably lower.

(3) Unless the court decides otherwise, the monetary guarantee pursuant to [Subsection 1](#), applies to the full force and effect of the final convicting judgment. If the claim for damages, or non-material damage, or surrenders any unjust enrichment of the victim is awarded by such judgment, the court shall pay such from the monetary guarantee.

(4) A complaint against the decision under [Subsection 1](#) and [2](#), which has a suspensive effect, is admissible.

#### Section 48

(1) Impoundage shall be revoked

- a) if the reason for which it was ordered lapses,
- b) if the criminal prosecution is finally suspended or terminated by the judgment of not guilty, or
- c) if two months passed since the entry of the judgment into full force and effect that the defendant was convicted of, or from the date the resolution in which the case was referred to another authority came into full force and effect.

(2) The impoundage should be limited if it becomes apparent that it would not be in the extent to which such was ordered. If the impoundage affected property belonging to someone other than the defendant, then such will be excluded from it.

#### Section 49

A complaint against the decision under [Section 47](#) and [48](#) which, if it is about the revocation of the impoundage, its restriction or release, has a suspensive effect, is admissible.

### **SUBDIVISION EIGHT**

#### **Agent of the Victim and the Party to an Action**

#### Section 50

(1) The party to an action and the victim may be represented by an agent.

(2) The agent of the party to an action and the victim may be a person whose legal capacity is not restricted; an agent can not be a person who is summoned by him as a witness, expert or interpreter at the main trial or public hearing.

#### Section 51

An agent of the party to an action and the victim is entitled to act on behalf of the party to an action or a victim, and submit requests and appeals; they are also entitled to participate in all actions in which the party to an action or a victim could participate.

#### Section 51a

(1) If the victim's claim for compensation of damage or non-material damage, or surrenders any unjust enrichment, is in compliance with the law, proves that they do not have sufficient funds to meet the costs incurred in retaining an agent, the presiding judge, who acts in the proceedings of the first instance, and in the preliminary hearing, the judge, shall decide that they are entitled to the legal assistance of an agent free of charge or at a reduced fee; this does not apply if the nature of the claimed damage or non-material damage or amount thereof or given the nature and extent of the unjust enrichment represented by the agent was probably unnecessary.

(2) The proposal for a decision under [Subsection 1](#) including [annexes](#), which should prove its merits, is submitted by the victim during the preliminary hearing through the public prosecutor who adds comments thereto.

(3) Subject to the conditions under [Subsection 1](#) the presiding judge and in preliminary hearing, a judge, shall appoint an attorney for the victim. Costs incurred in retaining such an agent are covered by the State.

(4) If the reasons which led to the appointment of an agent for the victim expire or the agent is unable to represent the victim any further due to important reasons, the presiding judge and in the preliminary hearing, the judge, shall revoke the obligation to represent the victim.

(5) A complaint against a resolution under [Subsection 1, 3](#) and [4](#) with a suspensive effect, is admissible.

## **SUBDIVISION NINE**

### **Access to Classified Information**

#### Section 51b

(1) If classified information is the subject matter of the criminal proceedings, the interpreter, the accused, the legal representative of the accused, legal counsel, party to an action, the victim, agent of the victim, agent of the party to an action, confidant of the accused, expert, persons giving professional opinions, as well as other persons who are legally required to take part in proceedings are instructed under special legal regulation 1).

(2) The instructions in [Subsection 1](#) shall be determined in the preliminary hearing by the police authority or a public prosecutor, and in proceedings before the court by the presiding judge. Whoever carries out this instruction shall establish a written record of the instructions in the criminal file.

(3) The instructions in [Subsection 1](#) shall not be necessary for those who present a valid certificate of natural persons for the relevant level of confidentiality of classified information and by the instruction issued under special legal regulation 1a).

## **CHAPTER THREE**

### **General Provisions Relating to the Act of Criminal Proceedings**

#### Section 52

#### **Method of Implementation of Actions in Criminal Proceedings**

In the carrying out of acts of criminal proceedings, it is necessary to communicate with the parties to an action in accordance with the requirements and educational significance of criminal proceedings; it is always advisable to investigate their personalities and constitutional rights.

## **SUBDIVISION ONE**

### **Letters of Requests**

#### Section 53

(1) The court, public prosecutors and police authorities perform individual acts of criminal proceedings generally on their own and within their jurisdiction. Outside their jurisdiction, individual acts of criminal proceedings are performed via letters of requests to the District Court, the public prosecutor, or the police authority in whose jurisdiction the action is to be taken; in the case of an urgent matter or if the proper adjudication of the matter is of an urgent need, they may enforce the action outside their own jurisdiction.

(2) The Supreme Court, High Court, and County Courts may perform individual acts even in their own jurisdiction through the letters of request of the District Court whose jurisdiction the acts are to be taken in; the Supreme Court and the High Court can also submit letters of request to the County Court.

#### Section 54

(1) The letters of request must indicate the case file information; this knowledge is necessary for the proper performance of the action. If necessary, the requesting authority shall attach and highlight the parts where the necessary information is contained. The requested authority, based on the nature of events and based on what became clear during the execution of the action, is entitled and obligated to perform other necessary tasks, especially to hear the other person and examine the circumstances specified in the letters of request, if such actions can aid the swift and correct decision on the matter.

(2) The acts of the requested court are carried out by a professional judge; simultaneously, they have the rights and obligations of the presiding judge.

## **SUBDIVISION TWO**

### **Transcript**

#### Section 55

#### **General Provisions for Transcript Recording**

(1) Unless the law stipulates otherwise, at any action of criminal proceedings a transcript is recorded, usually during an action or immediately after, which must include

- a) the name of the court, public prosecutor or other law enforcement authority,
- b) the place, time and subject of an action,
- c) name and surname of officials and their functions, name and surname of the parties present, the name, surname and address of the legal representatives, legal counsel and agents who participated in the action, and in the case of the victim and the accused also the address that is specified for the purpose of delivery, and other data necessary to establish or verify identities, including date of birth or birth certificate numbers,
- d) brief and concise statements of the course of an action which would be seen as preserving the statutory provisions governing the conduct of an action, essential contents of the decisions announced during an action, and if a copy of the decision was delivered immediately after reaching the decision, and the confirmation of this service; if there is a literal transcript of the person's statement, it is necessary to indicate such in the transcript accordingly so that it is possible to safely identify the beginning and end of the literal transcript,
- e) petitions of the parties, issued instructions, and/or an expression of the instructed persons,
- f) objections of the parties or the persons interviewed during the execution of an action or the content of the transcript.

(2) Should the identified condition indicate that the witness or persons close to them appear to be under threat of bodily harm or any other serious risk of violation of their fundamental rights in relation to their testimony and witness protection can not be safely ensured by some other means, the law enforcement authorities shall take steps to conceal the identity of the witness; the name and surname and other personal information is not recorded in the transcript but are kept separate from the criminal file and only law enforcement authorities may gain access to such details for the purpose of the case. A witness shall be instructed on the right to request confidentiality of their identity and must sign the transcript under an assumed name and surname under which they are further recorded. If the protection of such persons is required, law enforcement authorities must take all necessary steps without undue delay. A special manner to protect witnesses and persons close to them is stipulated by a [special Act](#). If the reasons for the confidentiality of identity and a separate record of personal data of witnesses has expired, the authority responsible for the legal proceedings at the time shall revoke the level of classification of information, attach the information to the criminal file, and the identity and details of the witnesses cease to be classified; this does not apply to the classified identity of persons listed in [Section 102a](#).

(3) The transcript drawn up on the conflict shall include literal testimonies of the confronted persons, as well as the wording of questions and answers; and the circumstances that are important in terms of the purpose and implementation of the confrontation. The transcript is drawn up about the recognition and it must include detailed circumstances under which the recognition was performed, in particular the order in which the persons or items are shown to the suspect, accused or witness, the time and conditions of their observations and their opinions; the recognition conducted in the preliminary hearing is usually video recorded. The transcript drawn up about the investigative attempt, the reconstruction and on-site review is necessary to describe all the circumstances under which these actions were carried out in detail, including their contents and results; if the circumstances of the case do not exclude it, video recordings, sketches, and other appropriate tools shall, if possible, be included in the transcript. Similarly, it is necessary to proceed even if an event when the implementation of other evidence is not explicitly provided by law.

(4) The transcript in the Czech language is drawn up on the testimony of a person even if the questioned person speaks another language; depending on the literal testimony, the reporter or an interpreter shall record the relevant part of the testimonies in the language spoken by the person who testifies.

(5) The correct transcript is guaranteed by the person who performs the operation.

#### Section 55a

### Special Means of Transcript Making

(1) To capture the course of action a stenography record may be made, which is then, together with the transcript of the ordinary handwriting, attached to the transcript or an audio or video recording or other suitable means.

(2) If an audio or video recording was made alongside the transcript, it is noted in the transcript of an action that in addition to the time, place and manner of its execution, shall also indicate the use of devices. The technical recording medium is attached to the file, or the place where it is stored is indicated.

#### Section 55b

### Certain Special Features of the Transcript in Court

(1) During the course of the main trial a sound recording is made, unless the presiding judge has important reasons not to so permit.

(2) If the court reporter is a magistrate or a protocol officer, the transcript is not dictated but is prepared in accordance with the audio recording by the magistrate or the officer of the court.

(3) Testimonies of persons who have already been heard are recorded in the transcript during the main trial or a public hearing only as long as such testimonies contain deviations or additions to earlier testimonies or explanations. The public prosecutor or the accused may request that the testimony given in court or its part is literally entered in the transcript; the presiding judge shall grant such a request provided the subject of the testimony is not a repetition of what was recorded earlier in the transcript.

(4) The transcript of the main trial or the public hearing is not necessary to be completed in writing, if the accused and the prosecutor declared that they resign their right to an appeal against the decision and that they do not insist on the preparation of a written transcript of the main trial or the public hearing, or any of the entitled persons fail to file an appeal and the decision comes into full force and effect. In this case, the magistrate or the officer of the court prepares a brief record of the trial or public hearing, stating the time and place of the trial or public hearing, the persons present, the decision and the statutory provisions that were used, and the opinion of entitled persons on the use of appeal.

(5) If the audio recording about the course of the actions before the court was made and if no reason to act pursuant to [Subsection 4](#) was given, its significant content from the course of the action or immediately after its completion shall be made in the transcript.

(6) In proceedings before the court the person responsible for the accuracy and completeness of the transcript is the magistrate or the officer of the court, if such were appointed as the court reporters.

(7) Audio recordings are stored on a data carrier along with the file, and if its attachment to the file is not possible, the place of its storage is noted in the transcript or a brief. The deletion of the audio recording can not be executed prior to the shredding of the documents.

(8) If the action is conducted outside the court building and the audio recording can not be captured, a court reporter is appointed and the presiding judge dictates the transcript.

#### Section 56

##### **Transcript Signing**

(1) The transcript of the main trial and the public and closed hearing shall be signed by the presiding judge and the court reporter; other transcripts shall be signed by the person who performed the operation thereof and the person to whom the action applies, or the court reporter, interpreter, expert or other person summoned to an action. If the transcript of the hearing consists of more than one page, the person heard must sign each page of the transcript. Should the questioned person or any other person invited to an action refuse to sign the transcript, such shall be entered in the transcript with a note of the grounds for refusal.

(2) If the presiding judge is unable to sign the transcript due to an obstacle of a longer duration of the main trial or a public or closed hearing, it shall be signed by another member of the court. If there is an obstacle with another person or a single judge, the reason why the transcript was not signed shall be recorded in the transcript.

#### Section 57

##### **Transcript Amendment**

(1) Amendment of the transcript of the main trial and the public and closed hearing, as well as objections to such transcript, shall be decided on by the court to which the transcript belongs. A complaint against the decision is admissible.

(2) A person who conducted the negotiations or the implementation of an action may, even after signing the transcript, order or perform the correction of clerical errors or any other obvious errors. Amendments shall be made so that the original entry remains legible; the amended version shall be signed by the person who ordered it.

#### Section 58

##### **Voting Records**

(1) The voting record shall be presented in addition to the general requirements ([Section 55 Subsection 1](#))

- a) the procedure for individual votes, the result and the decision statement,
- b) a different opinion from the majority view throughout the entire text and a brief justification.

(2) A record of all votes that occurred during the same hearing should be included in the same voting record.

(3) The voting record shall be signed by all members of the court and the court reporter.

(4) The voting record will be sealed and attached to the transcript of the trial. It may be opened only by the presiding judge of the higher court in deciding on an appeal and the presiding judge of the Supreme Court to decide on a complaint for the infringement of the law as well as the judge in charge of drawing up the judgment; once inspected, it should be sealed again and its opening should be confirmed by a signature.

(5) The voting record is not made in writing if it pertains to simple decisions which the court passed unanimously and which were preceded by a meeting in the court room only without a suspension; in such cases a note that the resolution was taken without a suspension of the meeting is made in the transcript.

### **SUBDIVISION THREE**

#### **Submission**

## Section 59

(1) Submissions are always assessed by their content, even if they are incorrectly marked. They can be made in writing, orally in the transcript, in electronic form signed electronically pursuant to special regulations, via telegram, fax or telex.

(2) A person who makes the submission in electronic form in accordance to a special legal regulation will simultaneously indicate the certification service provider who issued their certificate and keep their records or will attach the certificate for submission.

(3) The police authorities and the district prosecutor write the oral statement into the transcript during the preliminary hearing; the District Court writes them into the court proceedings. If there are important reasons, the public prosecution and the courts of a higher degree may infrequently write them as well. Extraordinary appeals may not be made in the protocol orally.

(4) If the law for the submission of a certain kind does not require additional elements, the submission must be clear as to which law enforcement authority is addressed, who it is that the matter affects and what they follow, and it must be signed and dated. The submissions must be submitted in the required number of copies and [attachments](#) so that one copy remains with the competent law enforcement authority, so that any person affected by the submission, if this is necessary, receives the same copy. If the submission does not meet these requirements, the law enforcement authority shall return it to the originator, if known, to complete it with the appropriate instructions on how to eliminate errors. At the same time, the law enforcement authority shall set a deadline for the elimination of such errors. If the originator is not known or if the deficiencies are not removed within the prescribed deadline, the submission will not be taken into account; this does not apply to criminal complaints or other complaints on the basis of which it can be concluded on suspicion of committing a crime, or for a submission whose content is an appeal, even if does not contain all the particulars. The appeal must always be clear with regards to which decision it challenges and who is making it.

(5) When an oral criminal complaint is made, it is necessary to hear the reporter on the circumstances under which the offence was committed, the personal circumstances of those who filed the report, on evidence, and on the level of damage caused by the reported crime; if the reporter is also the victim or their agent, it must also be heard as to whether they are applying for a court decision in criminal proceedings on their claim for damage or non-material damage, or surrenders any unjust enrichment. The hearing shall be conducted so as to give a basis for further proceedings.

(6) If the transcript of the criminal complaint was made orally in court, the court shall immediately forward it to the public prosecutor.

## SUBDIVISION FOUR

### Deadlines

#### Section 60

### Calculating Deadlines

(1) The day on which the event determining the onset of the deadline is not included in the deadline.

(2) A deadline determined by weeks, months or years shall expire on the day that it refers to by its name or numerical designation on which the event determined the onset of the deadline. In the case of the absence of that day in the last month of the deadline, it shall expire on the last day of the last month of the deadline.

(3) Where a deadline falls on a holiday or weekend, the next working day is considered to be the last day of the deadline.

(4) The deadline is also maintained if the submission was made within the deadline

a) as a postal letter addressed to the court, public prosecutor or police authority for which it is to be addressed or which is to make a decision on the matter,

b) to the court or public prosecutor, who is to decide in the case,

c) by a member of the armed forces or armed corps in the active service of their chief,

d) to the director of the correctional facility where the originator of the submission is in custody or prison, or

e) orally in the transcript at any District Court or district prosecutor.

#### Section 61

### Deadline Retrocession

(1) If the accused or their defence counsel misses the deadline for the submission of an appeal due to important reasons, and unless the law stipulates otherwise, the authority competent to decide on the appeal will permit the deadline retrocession. The deadline retrocession must be requested within three days from the removal of obstacles. If the appeal has not been filed by that time, it must be attached to the application. In the case of an appeal against a judgment, an appeal may be justified even within eight days from receipt of the order to permit the deadline retrocession.

(2) If an appeal is already dismissed as overdue, the authority shall revoke the deadline retrocession together with its

decision on the dismissal of an appeal.

(3) The provisions of [Subsection 1](#) and [2](#) are used accordingly even if it appears that the period for filing an appeal that was dismissed as overdue did not default.

## **SUBDIVISION FIVE**

### **Service**

#### Section 62

### **General Provisions**

(1) If the document is served as an action of the criminal proceedings, it is served by the law enforcement authority in data box 1b). If it is not possible to serve the document in this manner, the law enforcement authority shall serve it via the postal service (hereinafter referred to as "post") and, if such service is not successful, through the authority of the municipality. If the document is served by the court or public prosecution themselves, they do so via judicial servers or guards. If such document can not be served, it shall be served via the police authority. In the cases stipulated by special regulations, the law enforcement authority shall serve it via the Ministry of Justice or any other appointed authority.

(2) If the accused has a defence counsel and the victim or the party to an action has an agent, the written document is served only to the defence counsel or agents, unless the law provides otherwise. However, if the defendant, victim, or party to an action is supposed to do something personally, the document is delivered to them.

(3) If the service is provided by the law enforcement authority by post, the document may be prepared with its cooperation; the details of this procedure shall be set out by the Ministry of Justice.

#### Section 63

### **Heading Omitted**

(1) Unless this Act stipulates otherwise, appropriate regulations are used for the service applicable in civil proceedings for natural persons, legal entities, government bodies, the State, lawyers, notaries, municipalities and higher territorial self-governing units.

(2) If the addressee is the accused, they are served primarily to an address they listed for that purpose [[Section 55 Subsection 1 Paragraph c](#)].

(3) If the defence counsel is served documents for the accused in the proceedings against a fugitive ([Section 306 Subsection 1](#)) following the procedure applicable to service for the accused person.

#### Section 64

### **Service into Own Hands**

(1) Served into own hands is

- a) the prosecution, proposal for punishment, and summons for the defendant,
- b) a copy of the decision to persons entitled to file an appeal against the decision,
- c) any other document, if the presiding judge, public prosecutor, or the police authority orders such for important reasons.

(2) If an addressee of the post which is to be delivered into own hands, is not found, the consignment is stored and the addressee is adequately informed, where they can pick it up. If an addressee does not collect the post within ten days after its storage, the last day of this period is considered the day of service, even if the addressee did not learn of its storage, although they are staying at the place of delivery or they designated the address for service.

(3) The document is stored

- a) at the district court in whose jurisdiction is the place of service, or at the court which is located at the point of service if it is served by judicial servers or guards,
- b) with the public prosecution in whose jurisdiction is the place of service, or for the public prosecution, which has its office in the place of service when it is served by the server of the public prosecution or judicial guards,
- c) at the post office, if it is served via post,
- d) at the municipal authority, if it is served by municipal authority,
- e) at the competent police authority, if they serve the document themselves or if it is served by the court or the prosecution via the police authority.

(4) The served consignment can not be stored under [Subsection 2](#) if it is served

a) to the accused and it is an order for the commencement of the criminal prosecution, indictment, petition for punishment, judgment, or a criminal warrant a criminal summons for the main trial or a public hearing,

b) by the presiding judge, public prosecutor, or the police authority who orders the service of other documents based on important reasons.

(5) If the storage of the served consignment is not possible, the sender must clearly indicate such on the package.

Section 64a

#### **Refusal of Acceptance**

(1) If the addressee or persons entitled by them to accept documents refuses to accept the document, such shall be noted on the delivery receipt together with the date and reason for the refusal, and the documents will be returned.

(2) If the presiding judge, public prosecutor, or the police authority who sent the document admit that the acceptance of the document was unreasonably refused, the document is considered delivered on the date the acceptance was refused; the addressee must be notified of such result by the server.

### **SUBDIVISION SIX**

#### **Inspection of Documents**

Section 65

(1) The accused, victim and party to an action, their defence counsel and their agents have the right to inspect files, with the exception of the voting record and the personal data of the witnesses in accordance with Section 55 Subsection 2, to make extracts from them and notes, and make copies of files and their parts at own expense. The same right applies to the legal representatives of the accused, victim or the party to an action if they are denied legal capacity or if their legal capacity is restricted. Other people may then do so with the consent of the presiding judge and in criminal proceedings with the consent of the public prosecutor or the police authority only if it is necessary to exercise their rights.

(2) The public prosecutor or the police authority are entitled to inspect the files, along with the other rights referred to in [Subsection 1](#), and they may deny them based on important reasons in the preliminary hearing. The public prosecutor is obligated to urgently review the severity of the grounds on which those rights are denied by the police authority and the request of the person to whom the refusal concerns. These rights can not be denied to the accused and the defence counsel once they have been advised of the possibility to study the files.

(3) Those who had the right to be present to an action can not be denied access to the transcript of such an action. The accused and their legal counsel could not be denied access to the resolution to initiate criminal prosecution ([Section 160 Subsection 1](#)).

(4) The rights of public authorities to access the files under other legal regulations are not established with prejudice to the provisions of the preceding Subsections.

(5) When authorising access to the files, it is necessary to take such steps to preserve the secrecy of the classified information protected by a special Act which is related to the state ordered or recognised confidentiality obligation.

### **SUBDIVISION SEVEN**

#### **Disciplinary Fine**

Section 66

(1) A person who despite previous warnings cancels the trial or who behaves offensively to the court, public prosecution or police authority, or without sufficient excuse disobeys the order, or does not grant the request which was made under this Act, may be punished by the presiding judge and in preliminary hearing, the public prosecutor or the police authority, with a fine of up to CZK 50,000.

(2) Should a member of the armed forces or armed corps in active service commit the conduct described in [Subsection 1](#) a competent commander or a disciplinary punishment chief may decide the disciplinary punishment. Should a person be guilty of such conduct who is in custody or serving a prison sentence, the prison director may decide the order measures or disciplinary punishment. The competent commander, chief or director is obliged to inform the law enforcement authorities of the result of the criminal proceedings.

(3) Should the defence counsel commit the conduct described in [Subsection 1](#) or in the proceeding before the court, the prosecutor, it shall be forwarded to the appropriate authority for disciplinary sanctions. This authority is obliged to inform the law enforcement authorities of the results.

(4) A complaint against the decision under [Subsection 1 through 3](#) which has a suspensive effect, is admissible.

## **CHAPTER FOUR**

### **IMPOUNDAGE OF PERSONS, ITEMS AND OTHER ASSETS**

## **SUBDIVISION ONE**

### **Arrests**

#### **Section 67**

### **Reasons for Arrest**

The accused may be arrested only if, based on their actions or other specific factors, there is a justified concern,

- a) that they will flee or hide, so as to avoid criminal prosecution or punishment, in particular if it is difficult to immediately determine their identity, when they do not have permanent residence, or if they are facing a high penalty,
- b) that they will affect hitherto unquestioned co-defendants or witnesses or otherwise obstruct the clarification of facts important to the criminal prosecution, or
- c) that they will repeat the criminal activity for which they are prosecuted, or complete the criminal offence which they attempted, or commit a criminal offence that they had planned or threatened to commit, and the so far established facts indicate that the criminal offence for which they were criminally prosecuted was committed; that it has all the characteristics of a criminal offence; that there are clear reasons to suspect that this criminal offence was committed by the accused; and, with regards to the person accused, the nature and seriousness of the criminal offence for which they are prosecuted; and also when other measures are impossible to achieve during the decision process on the purpose of custody.

#### **Section 68**

### **title did not apply**

(1) Only a person against whom a criminal prosecution was initiated may be taken into custody. The custody decision must be justified by the facts. The court and, in the preliminary hearing upon the petition of the public prosecutor, the judge, shall decide on the taking of a person into custody.

(2) An accused person who is prosecuted for an intentional criminal offence for which the law sets out prison sentence with a maximum penalty of no longer than two years, or for a criminal offence committed through negligence for which the law sets out prison sentence with a maximum penalty of no more than three years, cannot be taken into custody.

(3) The restrictions referred to in [Subsection 2](#) shall not apply, if the accused has,

- a) fled or gone into hiding,
- b) repeatedly failed to respond to summons and failed to present or otherwise ensure their participation in an act of criminal proceedings,
- c) an unknown identity and the available means failed to reveal such identity,
- d) already affected the co-defendants or witnesses, or otherwise obstructed the investigation of facts important for the criminal prosecution, or
- e) continued the criminal activity for which they are prosecuted.

#### **Section 69**

### **Warrant for Arrest**

(1) If any of the reasons of custody ([Section 67](#)) are given and the accused cannot be summoned, presented, or detained and thus ensure their presence at the hearing, the judge shall issue in the preliminary hearing and upon the petition of the public prosecutor, and in proceedings before the court, the presiding judge, a warrant for the arrest of the accused.

(2) The warrant for the arrest, in addition to providing information that the accused will not be confused with another person, must include a brief description of the act for which the accused is being prosecuted, the reference of the criminal offence committed, and an accurate description of the reasons for the warrant for arrest being issued.

(3) The arrest is conducted on the basis of the warrant by the police authorities who are also obliged to track down the residence of the accused, if such is necessary for the performance of the warrant.

(4) The police authority that arrested the accused on the basis of a warrant is obligated to immediately deliver the accused to the next materially competent court, within no more than 24 hours. If the nearest materially competent court does not have a full and clear picture of the facts relevant to the criminal proceedings in the case, then the police authority that arrested the accused on the basis of an order, is obligated to provide such facts to the court where the judge issued the order by using information and communication technologies. Failure to do so will result in the immediate release of the accused.

(5) The judge to whom the accused was transferred must immediately hear the accused and decide on the custody, and notify the accused of the decision within 24 hours from the time the accused was transferred to them. If another materially competent judge performs the interrogation of the accused, they shall inform the judge of the objectively competent court that issued the warrant for the arrest. The judge, after obtaining information on the hearing, shall decide on the custody and shall

notify the court performing the interrogation of the accused. If the defendant is not notified of the decision within 24 hours from the time they were transferred to the court or the time that the judge performed their interrogation, the accused must be released. The accused has the right to require that their defence counsel is present at their interrogation, if they are reachable at the time.

(6) In proceedings before the court, the judge decides on the custody of the arrested person.

(7) The accused who has been taken into custody, shall be transferred to the place of custody by the police authorities.

#### Section 70

#### Notification of Custody

A family member of the accused and their employer must be promptly notified of the custody of the accused; this does not apply if the accused claims that they disagree with the notification, unless it is a notification of a family member of a juvenile. The direct commander or chief must be notified of the custody of an armed forces or armed corps member. Unless an international treaty to which the Czech Republic is bound stipulates otherwise, the court must inform the foreign consular office of the State of a foreigner's citizenship of being remanded in custody.

#### Section 70a

(1) The relevant prison must be promptly and timely notified of,

- a) the remand of the accused in custody,
- b) the amendment of the grounds for custody,
- c) decisions on further custody,
- d) the decision to release the accused from custody,
- e) the legal designation of the criminal offences for which the accused is prosecuted, or of their change,
- f) the names and addresses of the defence counsel who represents the accused,
- g) personal data of the co-defendant if they are in custody,
- h) the referral to another law enforcement authority,
- i) an indictment or a final decision on the return of the matter back to the public prosecutor for investigation,
- j) the application by the victims or witnesses under [Section 44a](#).

(2) The victim or a witness who has filed an application pursuant to [Section 44a](#), should be adequately informed about the release of the accused from custody or their escape from custody on the day that this actually occurred.

(3) Notifications of facts that the prison must be informed of under [Subsection 1](#) and [2](#) should be performed by the competent law enforcement authority when such occur; the return of the matter back to the public prosecutor for further investigation must be announced to the court where such a decision was made in the first instance.

#### Duration of Custody

#### Section 71

(1) The law enforcement authorities are obligated to process custody matters primarily as speedily as possible.

(2) In the preliminary hearing and in the main trial in court, custody may last only for the necessary period of time. Custody on the grounds referred to in [Section 67 Paragraph b\)](#) may take no more than three months; if it was found that the accused affected the co-defendants or witnesses, or otherwise obstructed the investigation of facts important to the criminal prosecution then, the judge, upon the petition of the public prosecutor in the preliminary hearing, and after the submission of the indictment, the court shall decide on the remand in custody of the accused. If the accused who is not currently in custody for another reason, is released from custody before the expiry of that period, they shall be released from custody for the reasons set out in [Section 67 Paragraph b\)](#) no later than on the day following the day of the expiry of that period.

(3) If the period of custody in the preliminary hearing reaches three months, the public prosecutor is obligated to decide whether the accused should remain in custody or whether they will be released from custody within five working days after the expiry of this period.

(4) If the public prosecutor decides that the accused shall be retained in custody, they are obligated to decide whether the accused shall remain in custody or whether the accused shall be released from custody within three months from the decision coming into full force and effect. The accused may be retained in custody only if it was not possible, due to the complexity of the case or for other serious reasons of the criminal prosecution, to finish within this period and the release of the accused would mean the possibility of obstruction or that it would be substantially more difficult to achieve the purpose of the criminal prosecution.

(5) The court is obligated to decide whether the accused should remain in custody or whether the accused should be released from custody within 30 days from the day when it was brought before the court, or when the file was delivered based on the decision to refer or order the matter of the accused who is in custody.

(6) Should the court retain the accused in custody or if the court decides to remand the accused in custody until after the indictment, it is obligated to proceed in a manner as described in [Subsection 4](#).

(7) If the period of custody as stipulated in [Subsection 5](#) or [6](#) is terminated during the appeal proceedings before a higher court, then such higher court is competent in the decision to keep the accused in custody or released from custody.

(8) The total length of custody in criminal proceedings must not exceed,

a) one year if a single judge is competent to decide on the criminal prosecution for the criminal offence,

b) two years if the criminal prosecution for a criminal offence is conducted by the competent district or county court in the first instance, unless it is a criminal offence listed in Paragraph c) and d),

c) three years if a criminal prosecution for a particularly serious criminal offence is being conducted, unless it is a criminal offence described in Paragraph d),

d) four years, if the criminal prosecution is being conducted for a crime for which, according to [the Penal Code](#), an exceptional punishment should be imposed.

(9) From the period referred to in [Subsection 8](#) one third falls to the preliminary hearing and two thirds to the proceedings before the court. After this period, the accused must be immediately released. If the accused is prosecuted for two or more criminal offences, the worst crime is decisive in the determination of this period. If during the proceedings it emerges that the act for which the criminal prosecution was initiated is a different criminal offence and the length of the custody carried out has already exceeded the time specified in the preceding sentence, the accused must be released from custody no later than fifteen days from the date when there was a warning to change the legal classification of the action, even if any of the grounds for custody still remain.

(10) The period of custody is counted from the date of the arrest or custody of the accused, or if there was no preceding arrest or detention then from the date on which the restriction of the liberty of the accused based on the court decision on custody occurred. When the case is returned to the public prosecutor for further examination, the course of the period referred to in [Subsection 3](#) continues from the date that the file was delivered to the public prosecutor.

(11) The duration of custody that was decided on in accordance with [Section 265o Subsection 2](#), [Section 275 Subsection 3](#), [Section 287](#) or [Section 314k Subsection 1](#), shall be considered separately and independently from the issue of custody in the main trial.

#### Section 71a

If the court declared the judgment, for which the accused was sentenced to unconditional prison sentence for a particularly serious crime, then the periods of custody under [Section 71 Subsection 8](#) and [9](#) until the order for the enforcement of serving the imposed prison sentence do not apply.

#### Section 72

(1) All law enforcement authorities are obligated to continuously examine whether the grounds for custody still exist or have changed. The court does so in the preliminary hearing only in the proceedings on the complaint against the decision as referred to in [Section 146a Subsection 1 Paragraph a](#).

(2) The accused must be immediately released from custody if

a) the grounds for custody expire, or

b) it is clear that given the circumstances related to the accused and the case, the criminal prosecution will not lead to imposing an unconditional prison sentence and that the defendant did not commit the deeds or acts referred to in [Section 68 Subsection 3](#).

(3) The accused has the right to apply for their release from custody. The court must immediately decide on such an application, no later than within five working days. If the application is dismissed, the accused may not repeat it until after fourteen days from the full force and effect of the decision unless new reasons are presented.

(4) If the public prosecutor consents to the release of the accused from custody, the presiding judge may decide in the proceedings before the court on the release from custody.

#### Section 73

### Replacement of the Custody with Guarantees, Supervision or Pledges

(1) In terms of the grounds given for custody referred to in [Section 67 Paragraph a](#)) or [c](#)), the competent authority deciding on the custody may leave the accused at large or release them from custody, if

a) the Public Interest Group referred to in [Section 3 Subsection 1](#), or a trustworthy person able to positively influence the behaviour of the accused, offers to undertake the guarantee for the future behaviour of the accused and that the accused

arrives at the summons of the court, public prosecutor or police authority, and that they will always notify in advance when they leave their place of residence, and the authority deciding on the custody deems the guarantee provided for the accused and the nature of the case as sufficient and acceptable,

b) the accused gives a written pledge to lead an orderly life, particularly not to commit criminal activities, to appear before the court, public prosecutor or police authority upon the summons, to always notify in advance when they leave their place of residence and to fulfil their obligations and comply with the restrictions imposed on them, and the authority deciding on the custody deems the pledge given by the accused and the nature of the case as sufficient and acceptable, or

c) with regards to the accused and the nature of the opened case, the purpose of the custody may be achieved with the supervision of the accused by a probation officer.

(2) The court and in the preliminary hearing, the public prosecutor, shall inform those who offered to undertake the guarantee pursuant to [Subsection 1 Paragraph a\)](#) and who meet the conditions for its acceptance on the nature of the allegations and facts that are the reason for the custody.

(3) The accused, who was granted supervision by a probation officer to replace the custody, is obligated to meet with the probation officer within the determined periods and change their residence only with their consent and submit to other restrictions set out in the decision, which are there to eliminate the possibility of committing a criminal activity or interfering with the course of criminal proceedings.

(4) In regards to the replacement of custody by the measures referred to in [Subsection 1](#) the authority deciding on the custody may simultaneously impose restrictions involving a ban on travel abroad to the accused. In such a case, the authority deciding on the custody of the accused or the person who has the passport of the accused in their possession, to give the travel documentation 10) within the period set out, otherwise it will be withdrawn; the procedure for the withdrawal of travel documents, pursuant to [Section 79](#) shall reasonably apply. A copy of the resolution, which was intended to impose a prohibition of travel abroad restriction, that concerns a citizen of the Czech Republic shall be sent by the authority deciding on the custody to the competent authority for the issue of travel documents; such authority shall also notify on the granting or withdrawal of the travel documents.

(5) The accused who, in connection with the replacement of custody, had restrictions imposed upon them as referred to in [Subsection 4](#), has the right to ask for their cancellation. Such a request must be decided by the authority deciding on the custody without undue delay. If the application is dismissed, the accused may not repeat it until after three months from the full force and effect of the decision, unless new reasons are presented.

(6) The authority that decided to cancel the prohibition to travel abroad restriction, which concerns a citizen of the Czech Republic, shall inform the competent authority that issues travel documents about this fact without undue delay; the authority must also inform on the return of travel documents to the accused.

(7) If the accused fails to fulfil the obligations imposed in connection with the replacement of custody by certain measures referred to in [Subsection 1](#) and if the grounds for custody remain, the court and in the preliminary hearing upon the petition of the public prosecutor, the judge, shall decide on custody.

#### Section 73a

#### Bail

(1) If a reason for the custody referred to in [Section 67 Paragraph a\)](#) or [c\)](#), is given, the relevant authority may decide on the arrest of the accused or their release from custody even if they accepted to take financial bail at the designated amount. However, if the accused is prosecuted for the criminal offence of murder ([Section 140 of the Penal Code](#)), serious bodily harm ([Section 145 of the Penal Code](#)), torture and other cruel and inhuman treatment under [Section 149 Subsection 3 and 4](#) of the Penal Code, human trafficking ([Section 168 of the Penal Code](#)), robbery under [Section 173 Subsection 4](#) of the Penal Code, hostage taking under [Section 174 Subsection 3 and 4](#) of the Penal Code, rape under [Section 185 Subsection 3 and 4](#) of the Penal Code, sexual abuse under [Section 187 Subsection 3 and 4 of the Penal Code](#), general threat of life under [Section 272 Subsection 2 and 3 of the Penal Code](#), the development, manufacture and possession of prohibited weaponry ([Section 280 of the Penal Code](#)), illegal production and other use of narcotic and psychotropic substances and poisons in accordance with [Section 283 Subsection 3 and 4 of the Penal Code](#), the hijacking of air transport, civilian vessels and a fixed platform ([Section 290 of the Penal Code](#)), the hijacking of an aircraft to a foreign country under [Section 292 Subsection 2 and 3 of the Penal Code](#), treason ([Section 309 of the Penal Code](#)), dividing of the Republic ([Section 310 of the Penal Code](#)), a terrorist attack ([Section 311 of the Penal Code](#)), terrorism ([Section 312 of the Penal Code](#)), sabotage ([Section 314 of the Penal Code](#)), espionage ([Section 316 of the Penal Code](#)), collaboration with an enemy ([Section 319 of the Penal Code](#)) and war treason ([Section 320 of the Penal Code](#)), genocide ([Section 400 of the Penal Code](#)), an attack against humanity ([Section 401 of the Penal Code](#)), apartheid and discrimination against groups of people ([Section 402 of the Penal Code](#)), preparation of aggressive war ([Section 406 of the Penal Code](#)), contacts that threaten the peace ([Section 409 of the Penal Code](#)), use of prohibited means of combat and clandestine warfare ([Section 411 of the Penal Code](#)), war atrocities ([Section 412 of the Penal Code](#)), the persecution of the public ([Section 413 of the Penal Code](#)), looting in an area of military operations ([Section 414 of the Penal Code](#)), abuse of internationally and state recognised symbols ([Section 415 of the Penal Code](#)), or misuse of the flag and ceasefire ([Section 416 of the Penal Code](#)), and if the reasons are given for custody referred to in [Section 67 Paragraph c\)](#), then bail cannot be accepted. With the consent of the accused, bail may be lodged by another person. However, prior to its acceptance, they must be made aware of the nature of the allegations and facts that are the reason for seeking custody.

(2) Upon the petition of the accused or the person who offered to cover the bail, the authority referred to in [Subsection 1](#) shall decide that,

a) the acceptance of bail is permitted also with regard to the person and wealth of the accused or the person who offered to

cover it for them, the nature and seriousness of the criminal offence for which the accused is prosecuted, and the seriousness of the grounds for custody shall determine the bail at the relevant amount of more than CZK 10,000 and its composition thereof, or

b) with regard to the circumstances of the case or the seriousness of the facts justifying the custody, offer of bail is not accepted.

(3) If the authority referred to in [Subsection 1](#) decides that the acceptance of bail is permitted, it may also decide to impose a prohibition of travel abroad restrictions. For cases under the first sentence of [Section 73 Subsection 4 through 6](#) shall apply accordingly.

(4) The court, and in the preliminary hearing upon the petition of the public prosecutor, the judge, shall decide that the bail belongs to the state, if the accused

a) flees, hides, or fails to advise on their change of residence, and thus prevents the delivery of the summons or other documents of the court, public prosecutor, or police authority,

b) deliberately does not respond to summons to appear for the criminal proceedings, the performance of which is impossible without their presence,

c) they repeat the criminal activity or attempt to complete the criminal offence that they had previously failed or planned or threatened to perform, or

d) they avoid the enforcement of prison sentence or a monetary penalty or the execution of an alternative prison sentence for a monetary penalty.

(5) The bail shall be revoked or its amount changed upon the petition of the accused or the person who paid it or, even without the petition, by the court or the public prosecutor who is conducting the proceeding at that time, if the reasons that led to its acceptance expired or the circumstances for determining its amount have changed. If they decide to revoke the bail or its accrual to the state, they will also examine if there are any grounds for the decision to remand in custody and, if necessary, they shall carry out the necessary actions thereto.

(6) Unless the court decides otherwise, the bail for the accused, who was sentenced to an unconditional prison sentence or a monetary penalty, remains until the day the accused begins serving a prison sentence, pays the fine, and covers the costs of criminal proceedings. Should the accused fail to pay a monetary penalty or the costs of criminal proceedings within the prescribed period, the bail fund should be used to cover it; [Subsection 7](#) shall not be affected thereby.

(7) If the convicting judgment imposes upon the accused an obligation to compensate the victim in monetary terms for damage or non-material damage and the victim places this request within the set deadline, then bail shall be used for the payment of the receivable of the victim once the convicted has fulfilled their obligations referred to in [Subsection 6](#). If the funds of the bail are insufficient to satisfy the receivables of all victims, these receivables shall be satisfied proportionally.

(8) The court shall notify the victim as soon as the bail may be used to pay the victim's receivables under [Subsection 7](#). If the victim fails to request that bail be used for payment of their receivables within three months after such notification, the bail shall be reimbursed to the convicted or the person who paid the bail. The victim must be instructed on this.

(9) The accused and the person who paid the bail must be warned in advance of the grounds on which bail may accrue to the state, be used to pay a fine or the costs of criminal proceedings or for payment of the victim's receivables.

#### Section 73b

#### Authority Deciding on Custody

(1) The remand of the accused in custody can be decided only by the court and, in criminal proceedings upon the petition of the public prosecutor, the judge.

(2) The court and in the preliminary hearing, the public prosecutor, decide on the further custody of the accused or the request for a revocation of a prohibition to travel abroad restriction, that the accused was charged under [Section 73 Subsection 4](#) and [Section 73a Subsection 3](#).

(3) The release of the accused from custody may be decided, even without the application in the preliminary hearing, by the public prosecutor. They may also decide to release the accused from custody subject to the guarantee, pledge, and supervision by a probation officer or the payment of bail. If the public prosecutor does not grant the requests for the release from custody, they are obligated to submit it for a decision to the court within five working days from its receipt. After the indictment, the court shall make the mentioned decisions.

#### Section 74

#### Complaint against the Decision on Custody

(1) A complaint against the decision on custody ([Section 68, 69, 71 Subsection 2 through 5, Section 72, 73](#) and [73a](#)) is admissible.

(2) The suspensive effect applies only to a public prosecutor's complaint against the decision to release the accused from custody, and a complaint from the parties against the decision on bail escheat. However if the public prosecutor was present during such a decision, their complaint has a suspensive effect only if it was made immediately after the decision.

## Section 74a

### Restrictions of the Accused Serving a Prison Sentence

(1) If there is a criminal prosecution against the accused serving a prison sentence, and if any of the reasons for custody are in accordance with [Section 67](#), a decision on the reasons, the content, and the necessary restrictions, applied against them shall be made by the court and, in the preliminary hearing upon the petition of the public prosecutor, the judge.

(2) The imposed restrictions must not be more serious than those which the accused would otherwise be subjected to in custody.

(3) Reasonable provisions of [Section 71](#) and [72](#) shall be applied to the proceedings on restrictions and their validity. A complaint against the decision under [Subsection 1](#) is admissible.

## SUBDIVISION TWO

### Detention

#### Section 75

### Detention of the Accused by a Police Authority

If there is a reason for custody ([Section 67](#)) and due to the urgency of the case a decision cannot be obtained in advance, the police authority may detain the accused themselves. It is, however, obligated to immediately notify the public prosecutor of the detention and give them a copy of the transcript that was written during the apprehension and other materials that are necessary for the public prosecutor to possibly file a petition for custody. The petition must be submitted so that the accused can be referred to the court within 48 hours of detention, otherwise they must be released.

#### Section 76

### Detention of Suspects

(1) A person suspected of committing a criminal offence may, if there is reason for the custody ([Section 67](#)), be apprehended and detained by the police authority even if there has not been a criminal prosecution commenced against them ([Section 160 Subsection 1](#)). The detention requires the prior warrant of the public prosecutor. Detention may be executed without such consent only if the matter is urgent and the warrant cannot be obtained in advance, especially if the person was caught committing a criminal offence or apprehended on the run.

(2) The personal liberty of a person who was caught committing a criminal offence or immediately thereafter may be restricted by anyone if it is necessary to establish their identity, to prevent escape, or to secure evidence. However, they are obligated to immediately refer this person to the police authorities; a member of the armed forces may also be referred to the closest unit of the armed forces or corps manager. If it is not possible to immediately refer the person, the restriction imposed on the personal liberty must be reported to one of the mentioned authorities without undue delay.

(3) The police authority that carried out the detention shall question the person and write a transcript on the interrogation including the indication of the place, time and circumstances of the detention, and state the personal information of the detainees, as well as substantive reasons for the detention.

(4) The police authority that carried out the detention, or the police authority which a person who was caught during the criminal offence was referred to pursuant to [Subsection 2](#), shall immediately release them to freedom if suspicion is revoked or the grounds for detention expire. If the detained person is not released from custody, they shall pass the transcript on the interrogation along with the prepared resolution to initiate criminal prosecution and other material evidence to the public prosecutor so they can file a petition for remand. The police authority must submit the petition without undue delay so that the person detained under this Act can be referred to the court within 48 hours of detention, otherwise they must be released.

(5) The provisions of [Section 33 Subsection 1](#) and [Section 91, 92, 93](#) and [95](#) must be reasonably observed even if the detainee is questioned when the criminal prosecution has not commenced ([Section 160](#)).

(6) The detained person has the right to choose a defence counsel, speak with them without the presence of a third party, and consult them during the detention; they also have the right to require that their defence counsel is present at the interrogation in accordance with [Subsection 3](#), unless the defence counsel is out of reach during the period referred to in [Subsection 4](#). The suspect must be instructed on these rights and they must be provided with the full opportunity to exercise them.

#### Section 77

### The Decision on the Detainee

(1) If the public prosecutor warrants the release of a detained person based on the evidence delivered to them or after repeated interrogation, they are obliged to refer them to the court along with the petition for remand within 48 hours in custody. Any obtained evidence shall be attached to the petition.

(2) The judge is obligated to hear the detained person ([Subsection 1](#)) and decide on their release from custody or on their remand within 24 hours of the receipt of the public prosecutor's petition. The court shall promptly and without undue delay inform the public prosecutor and the appointed defence counsel on the time and venue of the hearing, if the defence counsel is

reachable and the detained person requested their presence. The defence counsel and the public prosecutor may be present during the interrogation and ask the detainee questions, but only with the prior permission of the court. Violation of the 24 hour period from the receipt of the petition of the public prosecutor to the remand in custody is always a reason for the decision to release the accused from custody.

### **SUBDIVISION THREE**

#### **Prohibition on Travel Abroad**

##### **Section 77a**

(1) If there is a criminal prosecution for an intentional criminal offence for which the law sets out prison sentence which exceeds a maximum term of two years, or for a criminal offence committed through negligence for which the law sets out prison sentence which exceeds a maximum term of three years, the court and, in the preliminary hearing upon the petition of the public prosecutor, the judge, may impose restrictions involving the prohibition of travel abroad, provided such is necessary for the purpose of the criminal proceedings. A complaint against this decision is admissible.

(2) If the accused was imposed a restriction under [Subsection 1](#), the presiding judge and in the preliminary hearing, the judge, shall ask the accused or the person who has the travel documents of the accused in their possession, to submit their travel documents 10) within the period specified by them, otherwise they will be removed from their possession; the procedure for the removal of travel documents under [Section 79](#) shall apply accordingly.

(3) The presiding judge and in the preliminary hearing, the judge, shall send a copy of the decision referred to in [Subsection 1](#), if it concerns a citizen of the Czech Republic, to the competent authority to release the travel documents; this authority shall also advise on the release or removal of the travel documents.

(4) The restriction prohibiting travel to foreign countries under [Subsection 1](#) shall be revoked by the presiding judge and in the preliminary hearing, the public prosecutor, even without the petition, if the reasons for their imposition have expired. The accused, who was imposed the restrictions under [Subsection 1](#), has the right to seek its annulment. Such a request must be decided by the presiding judge and in the preliminary hearing, the public prosecutor, without undue delay. A complaint against this decision is admissible. If the application is dismissed, the accused may repeat it after three months from the full force and effect of the decision, unless new reasons are presented.

(5) The presiding judge, and in the preliminary hearing, the public prosecutor, shall without undue delay order the competent authority to release the travel documents and on revoking the prohibition to travel abroad restriction, which concerned a citizen of the Czech Republic; this authority shall also advise on the release of the travel documents to the accused.

### **SUBDIVISION FOUR**

#### **Issue and Seizure of Property, Impoundage of Financial Resources, Booked Securities, Real Estate and other Assets**

##### **Section 78**

#### **Obligation to Release Property**

(1) Those who are carrying a property important to the criminal proceedings are obligated to submit it to the court, public prosecutor, or police authority when prompted; if the purpose of the criminal proceedings requires its securing, they are obligated to release the property when prompted. When prompted, it is necessary to note that if they fail to comply with the call, the property may be removed from them, as well as there being other consequences of non-compliance ([Section 66](#)).

(2) The obligation under [Subsection 1](#) shall not apply to an instrument whose content relates to the circumstances of the ban on interrogation, unless there was an exemption from the obligation to keep the matter secret or confidential ([Section 99](#)).

(3) The presiding judge and in the preliminary hearing, the public prosecutor or the police authority, are entitled to prompt the release.

##### **Section 79**

#### **Seizure of Property**

(1) If the property important to the criminal proceedings is not released when those who have it in their possession are prompted, it may be removed from their possession on the warrant of the presiding judge, and in preliminary hearing, the public prosecutor or police authority. The police authority needs to have the prior approval of the public prosecutor for the issue of such warrant.

(2) If the authority that issued the warrant for the seizure of the property does not seize such property themselves, the police authority shall do so on the basis of the warrant.

(3) Without the prior consent referred to in [Subsection 1](#) the warrant may be issued by the police authority only if prior approval cannot be achieved and the matter cannot be delayed.

(4) A person who is not involved in the matter shall take part in seizing the property.

(5) The transcript of the release and seizure of the property must also contain a sufficiently accurate description of the

released or seized property that would make it possible to determine its identity.

(6) The authority that performed the action shall immediately issue a written confirmation of the receipt of the property, or a copy of the transcript to the person who released the property, or from whom it was removed.

#### Section 79a

##### **Impoundage of Funds in a Bank Account**

(1) If the established facts indicate that the funds in a bank account are intended for committing a criminal offence, or that they were used to commit a criminal offence, or are the proceeds of a criminal activity, then the presiding judge and in the preliminary hearing, the public prosecutor or police authority, may decide to impound the funds in the account and possibly the financial resources additionally received in the bank account, should the grounds, including their accessories, relate to them. The police authority needs to have the prior approval of the public prosecutor for the issue of such warrant. The prior approval of the public prosecutor is not necessary in urgent matters that cannot be delayed. In such a case, the police authority is obligated to file its decision to the public prosecutor, who will either grant it or revoke it within 48 hours.

(2) A decision under [Subsection 1](#) must be served to the bank that holds the bank account, and also, after the bank has impounded the funds to the bank account holder. The decision shall include the bank account, which means the account number and the sort code, and the amount of cash in the respective currency that the impoundage refers to. Impoundage refers to the financial resources that were in the bank account at the moment of serving the decision to the bank, up to the amount specified in this provision of the decision on the impoundage including its accessories. If the amount stated in the decision exceeds the available balance of finances in the bank account, the impoundage also applies to funds in the account subsequently received up to the amount, including its accessories, as stated in the decision. Unless the law enforcement authority referred to in [Subsection 1](#) stipulates otherwise, any handling of the funds present in the account up to the amount of the impoundage shall be restricted the moment the decision is served, with the exception of enforcement. The payment of receivables, which are subject to the enforcement of a judicial or administrative decision, shall be primarily covered by funds not affected by the decision. Financial resources, which are subject to the decision on impoundage, may be handled within the enforcement of the decision only after the prior approval of the presiding judge and in the preliminary hearing, the public prosecutor; this does not apply if the enforcement is carried out to satisfy the claims of the State.

(3) If the impoundage of funds in the bank account for the purposes of the criminal proceedings is no longer necessary, or the impoundage is not required at the determined amount, the law enforcement authority referred to in [Subsection 1](#) shall revoke the impoundage or reduce it. The police authority needs to have the prior approval of the public prosecutor for the issue of such warrant. The decision to revoke or reduce the impoundage must be served to the bank and bank account holder.

(4) The bank account holder, whose funds were impounded in the bank account, has the right to apply for the revocation or reduction of the impoundage at any time. The public prosecutor, and in proceedings before the court, the presiding judge, must decide on the request immediately. If the application is dismissed, the account holder may not repeat it until after fourteen days from the full force and effect of the decision, unless new grounds are presented.

(5) A complaint against a decision under [Subsection 1, 3](#) and [4](#) is admissible.

#### Section 79b

For the grounds on which the funds in the bank account may be impounded, it can be decided to impound the financial resources in the savings account and credit account or other entities that keep an account for another, the blocking of funds from state pension contributions, blocking of financial credit utilisation, and blocking of financial leases. The provisions of [Section 79a](#) shall reasonably apply to the procedure for deciding on the impoundage and revocation or restriction of the impoundage.

#### Section 79c

##### **Impoundage of Booked Securities**

(1) If the presiding judge or in the preliminary hearing, the public prosecutor, decide on the impoundage of booked securities, the person entitled to keep records of investment instruments in accordance with a special Act or the Czech National Bank will establish a special account for their holders where these securities are transferred.

(2) In urgent cases, which cannot be delayed, the police authority may decide on the impoundage of the booked securities. In such a case, they are obligated to file their decision to the public prosecutor, who will either grant it or revoke it, within 48 hours.

(3) At the moment of serving the decision on impoundage, any handling of the securities that the impoundage refers to is forbidden. The law enforcement authority referred to in [Subsection 1](#) and [2](#) depending on the nature and circumstances of the criminal offence for which a criminal prosecution exists, may stipulate that due to the impoundage of the booked securities no further rights may be exercised.

(4) The provisions of [Section 79a](#) shall reasonably apply to the grounds of the decision to impound the booked securities, the procedure for deciding on the impoundage, and the revocation or restriction of the impoundage.

(5) The procedure in the custody of the impounded booked securities shall be governed by special legal regulations.

#### Section 79d

##### **Impoundage of a Real Estate**

(1) If the established facts indicate that the real estate is intended for committing a criminal offence, or that it was used for committing a criminal offence, or that it is the proceeds of a criminal activity, the presiding judge and in the preliminary hearing, the public prosecutor or police authority, may decide to impound the real estate. The police authority needs to have the prior approval of the public prosecutor for the issue of such warrant. The prior approval of the public prosecutor is not necessary in urgent matters that cannot be delayed. In such a case, the police authority is obligated to file its decision to the public prosecutor, who will either grant it or revoke it, within 48 hours. A complaint against the decision on impoundage of a real estate is admissible.

(2) The decision on impoundage shall prohibit the owner of the real estate from dealing with the real estate that is mentioned in the resolution; in particular they are also prohibited from transferring the real estate to someone else or mortgaging it after the resolution was made, and it instructs them to advise the presiding judge and in the preliminary hearing, the public prosecutor, on who has first refusal or any other right to the real estate within 15 days of the announcement of the resolution, with the instruction that otherwise the owner of the real estate is held responsible for the damages caused. The authority referred to in [Subsection 1](#) shall send the resolution of the impoundage to the competent Land Registry office. The public prosecutor shall send the competent Land Registry office a copy of the decision to revoke the impoundage in accordance with [Subsection 1](#).

(3) The presiding judge and in the preliminary hearing, the public prosecutor or with their consent, the police authority, shall carry out the necessary inspection of the real estate and its accessories; the property owner or a person who lives with them in the same household, and the person who is known to have property rights, shall be advised on the time and place of the real estate inspection. The real estate owner or a person living with them in the same household, and the person who is known to have the property rights, are obligated to permit the inspection of the real estate and its accessories.

(4) The final resolution on the impoundage of the real estate shall be served by the law enforcement authority referred to in [Subsection 1](#) to the persons that are known to have first refusal on the real estate, lease or other rights; furthermore, they will serve it to the financial authority and the municipal authority whose jurisdiction the real estate is located in and in which the real estate owner has a permanent or other residence. If the presiding judge decides on the impoundage of the real estate, the final resolution on the impoundage of the real estate is placed on an official bulletin board of the court. In the preliminary hearing, it shall be adequately published at the competent office of public prosecution. The law enforcement authority that decided on the impoundage in accordance with [Subsection 1](#) shall inform the competent Land Registry Office on the full force and effect of this resolution.

(5) Pursuant to a special legal regulation, the deposition of the ownership or any other rights to the impounded real estate may, after the notification of the competent Land Registry office according to [Subsection 2](#) be transferred only with the prior consent of the authority that decided on the impoundage according to [Subsection 1](#). The petition for the deposition of the rights regarding the impounded real estate submitted under a special legal regulation before the issue of the resolution on the impoundage, which has not yet been finally decided by the competent authority, shall lose its legal effects on the day of the full force and effect of the resolution to impound the real estate.

(6) Third party rights to impounded real estate may be exercised under a special legal regulation. The impounded real estate can be dealt with only with the prior consent of the judge, and in the preliminary hearing, the public prosecutor; this does not apply if the enforcement is carried out to satisfy the claims of the State.

(7) If the impoundage of real estate for the purposes of criminal proceedings is no longer necessary or the impoundage of a real estate is not required to the extent determined, the law enforcement authority referred to in [Subsection 1](#) shall revoke the impoundage or reduce it. The police authority needs to have the prior approval of the public prosecutor for the issue of such warrant. A complaint on the revocation or reduction of the impoundage, which has a suspensive effect, is permissible.

(8) The owner of the impounded real estate has the right to apply for the revocation or reduction of the impoundage at any time. The public prosecutor, and in proceedings before the court, the presiding judge, must decide on the request immediately. If the application is dismissed, the owner of the real estate may not repeat it until after fourteen days from the full force and effect of the decision, unless they present new grounds. A complaint against this decision is admissible.

(9) The procedure in the management of impounded real estate shall be governed by special legal regulations.

#### Section 79e

#### Impoundage of Other Assets

(1) If the established facts indicate that assets other than those referred to in [Section 78 through 79d](#) are intended for committing a criminal offence, or that they were used for committing a criminal offence, or are the proceeds of a criminal activity, the presiding judge and in the preliminary hearing, the public prosecutor or police authority, may decide to impound such other assets. The police authority needs to have the prior approval of the public prosecutor for the issue of such warrant. The prior approval of the public prosecutor is not necessary in urgent matters that cannot be delayed. In such a case, the police authority is obligated to file its decision to the public prosecutor, who will either grant it or revoke it, within 48 hours. A complaint against the decision to impound other assets is admissible.

(2) The resolution on the impoundage of other assets prohibits the owner of the assets from dealing with the assets mentioned in the resolution, and also prohibits them from transferring the assets to someone else or mortgaging them after the resolution was made. The resolution on the impoundage of other assets may also restrict the further exercising of rights related to the impounded assets, if it is necessary for impoundage purposes. In addition, the owners of other assets are ordered to advise the presiding judge, and in the preliminary hearing, the public prosecutor, on who has first refusal or any other rights to the property within 15 days of the announcement of the resolution, with the instruction that otherwise the owner of the real estate is responsible for damages caused. The resolution on the impoundage of other assets shall prompt their owner to release

all documents whose production is necessary to exercise certain rights to the impounded assets, with a warning about the consequences of the failure to comply with such a call within the prescribed deadline ([Section 66](#) and 79). These documents shall be filed and stored in the custody of the court.

(3) The law enforcement authority which decided on the impoundage under [Subsection 1](#), shall also notify the debtors of the owner of other assets and instruct them to place the subject of performance to the custody of the court instead of the performance towards the owner of the other assets, or to the place designated by the law enforcement authority in accordance with [Subsection 1](#). Upon the submission of the subject of the performance to the custody of the court or to a designated place, the debtor has met their obligation to the extent of the provided performance. The debtor shall be notified on the resolution to impound other assets before their owner.

(4) The law enforcement authority which decided on the impoundage in accordance with [Subsection 1](#), shall immediately inform the authority, which under special legal regulations keeps the records of owners or holders of other assets that were impounded, and the local office of the Office of the Government Representation in Property Affairs, in whose jurisdiction the owner of other assets has a permanent or any other residence, on this decision without delay; if the owner of other assets has their residence abroad, they shall notify the local office of the Office of the Government Representation in Property Affairs, in whose jurisdiction the other assets are located. The competent law enforcement authority shall simultaneously ask these authorities if they find that the other assets handled in a way that threatens to obstruct or complicate the purpose of the latter, to report such to them immediately.

(5) If the transfer or the establishment of rights to impound other assets requires an entry in the register maintained under a special legal regulation, such entry may, after the notification performed according to [Subsection 4](#) be carried out only with the prior consent of the authority who decided on the impoundage pursuant to [Subsection 1](#). The other assets, which are subject to the decision on impoundage, may be handled within the enforcement of the decision only after the prior approval of the presiding judge, and in the preliminary hearing, the public prosecutor; this does not apply if the enforcement is carried out to satisfy claims of the State.

(6) Third party rights to impounded other assets may be exercised under special legal regulations.

(7) The revocation or reduction of impounded other assets shall be governed by [Section 79d Subsection 7](#) and [8](#).

(8) The procedure in the management of impounded other assets shall be governed by special legal regulations.

#### Section 79f

### Impoundage of Replacement Value

If it is not possible to achieve the release or seizure of property ([Section 78](#) and [79](#)), or it is not possible to impound funds in the accounts ([Section 79a](#) and [79b](#)), the booked securities ([Section 79c](#)), real estate ([Section 79d](#)) or other assets ([Section 79e](#)), that are intended for committing a criminal offence or which have already been used to commit a criminal offence, or are the proceeds of a criminal activity, a replacement value that corresponds to their value even in part; a similar procedure under the relevant provisions regulating their release, seizure or impoundage ([Section 78 through 79e](#)).

### Returns and the Further Handling of Property and Other Assets

#### Section 80

(1) If the property, which was released pursuant to [Section 78](#) or removed pursuant to [Section 79](#), is no longer necessary for further proceedings and if its forfeiture or confiscation does not come into consideration, it is returned to the person who released it or from whom it was removed. If another person applies for the right to it, then it shall be released to the person whose rights in the case cannot be doubted. If there are doubts, it shall be placed into custody and the person who applies their right to it shall be advised to apply their right to it in the civil matters proceedings. If a person who has the right to the property does not take it over, despite repeated calls, the property will be sold and the amount from sale shall be stored in the custody of the court. An appropriate regulation on the judicial sale of impounded movable assets is applied for such sale.

(2) If there is a danger that the property, that could not be returned or released pursuant to [Subsection 1](#), should fall into disrepair, it will be sold and the amount from its sale shall be placed into the custody of the court. An appropriate regulation on the judicial sale of impounded movable assets is applied for the sale.

(3) The presiding judge, and in the preliminary hearing, the public prosecutor or the police authority, make decisions in accordance with [Subsection 1](#) and [2](#). A complaint, which has a suspensive effect, against the decision on the return and release of property, as well as its imposition in custody, is admissible.

#### Section 81

(1) If a property, which the accused obtained or likely obtained through a criminal offence was removed or released from them and if it is either not known to whom the property belongs or the residence of the claimant is not known, a public description of the property shall be published. The announcement shall be done in the most efficient way possible for the detection of the claimant, along with a call for the claimant to come forth within six months after publication.

(2) If someone other than the accused exercises the right to property within the deadline set out in [Subsection 1](#) they shall proceed in accordance with [Section 80 Subsection 1](#). If no one else exercised the right to the property, the property shall be released or if due to a danger of the property falling into disrepair it has already been sold, the amount from its sale shall, at the request of the accused, be deducted, unless the property was obtained by criminal offence. If it is a property, which the accused obtained through a criminal offence or if the accused did not request the return of the property and no one else exercised the right to the property within the six months' deadline, the property falls to the State after the deadline referred to in

the second sentence of [Subsection 1](#) has lapsed; this however does not affect the right of the owner to demand the release of such property or the amount deducted for its sale.

(3) If it is valueless property, it can be destroyed without the prior publication of a description.

(4) The measures and decisions referred to in [Subsection 1 through 3](#) shall be performed by the presiding judge, and in the preliminary hearing, the public prosecutor or police authority. A complaint against the resolution on the release or the destruction of the property, which has a suspensive effect, is admissible.

#### Section 81a

The provisions of [Section 80](#) and [81](#) shall be reasonably applied to the procedure for returning the funds to a bank account, booked securities, real estate and other assets which were impounded in accordance with [Section 79a through 79e](#) and their further handling, as well as to the procedure for returning the replacement value, which was impounded in accordance with [Section 79f](#).

#### Section 81b

(1) If a property threatens the safety of persons or assets, particularly if narcotic and psychotropic substances, products containing narcotic or psychotropic substances, precursors, poisons or radioactive material were released or removed, from which an appropriate sample was taken and the property is no longer necessary for the purpose of evidence, particularly if there are no doubts about the identity of the sample property and its unit and total quantity, the presiding judge, and in the preliminary hearing, the public prosecutor, may already decide to destroy such during the course of the criminal proceedings, if the property is no longer necessary for further proceedings and it cannot be returned pursuant to [Section 80](#), or if it is not known to whom such property belongs, or if the residence of the claimant is unknown.

(2) A complaint against a resolution with a suspensive effect in accordance with [Subsection 1](#) is admissible.

### SUBDIVISION FIVE

#### House and Personal Searches, Search of Other Premises and Land Property, Entry into Residence, Other Premises and Land

#### Section 82

##### Reasons for House and Personal Searches and Search of Other Premises and Land

(1) A house search can be conducted if there is a reasonable suspicion that a person or property important for criminal proceedings is present in the residence or other premises used for housing or on premises associated with them (residence).

(2) Due to the grounds provided for in [Subsection 1](#) a search of non-residential premises (other premises) and land, if not publicly accessible, may be performed.

(3) Personal searches may be performed if there is a reasonable suspicion that someone is carrying property important to criminal proceedings.

(4) A detained person and a person who was arrested or taken into custody may even be inspected if there is a suspicion that they are in possession of a weapon or other property that could endanger their own or someone else's life or health.

#### Section 83

##### House Search Warrant

(1) The presiding judge and, in the preliminary hearing upon the petition of the public prosecutor, the judge, are entitled to warrant a house search. In urgent cases, the presiding judge or a judge in whose jurisdiction the search is to be performed may do so instead of the competent presiding judge or judge ([Section 18](#)) A house search warrant must be issued in writing and must be justified. It shall be served to the person whose residence the search takes place in, during the search. If this is not possible, then no later than 24 hours after the removal of obstacle that had prevented the serving of the warrant.

(2) A police authority shall perform the house search on the order of the presiding judge or a judge.

#### Section 83a

##### Search Warrant of Other Premises and Land

(1) The presiding judge is entitled to warrant a search of other premises or land. The warrant must be issued in writing and must be justified. It shall be served to the user of the premises or land in question, and if such could not be reached during the search then after the removal of the obstacle that had prevented the serving of the warrant.

(2) The search of other premises or land shall be performed by the authority that orders the warrant, or upon such warrant, the police authority.

(3) The police authority may perform a search of other premises or land without a search warrant or an authorisation referred to in [Subsection 1](#) only if the warrant or authorisation cannot be achieved and the matter cannot be delayed, or if the

user of the other premises or land declares in writing that they agree to the search and passes their declaration to the police authority. The authority that is entitled to issue the warrant or authorisation according to [Subsection 1](#) shall be immediately notified of such actions.

#### Section 83b

##### Personal Search Warrant

(1) The presiding judge, and in the preliminary hearing, the public prosecutor, or with their approval, the police authority, are entitled to warrant a personal search.

(2) If the search is not performed by an authority that warranted it, it is carried out, on their order, by the police authority.

(3) Personal searches are always conducted by a person of the same sex.

(4) The police authority performs a personal search without the warrant or approval referred to in [Subsection 1](#) only if the warrant or approval cannot be achieved in advance and the matter cannot be delayed, or if the person in question is caught in the act, or it is a person for whom a warrant for arrest was issued. The personal search may be conducted without a warrant or approval in the cases referred to in [Section 82 Subsection 4](#).

#### Section 83c

##### Entry into Residence, other Premises or Land

(1) The police authority may enter a residence, other premises, or land property only if the matter cannot be delayed, and entry is necessary to protect human life or health, or to protect other rights and freedoms, or to avert a serious threat to public safety and public order.

(2) The police authority may also enter the places referred to in [Subsection 1](#) in the case there is a person who,

a) is subject to a warrant for arrest or order for delivery for the enforcement of prison sentence,

b) must be presented for the purpose of criminal proceedings, or

c) must be detained for the purposes of extradition or transfer to another state.

(3) Upon entering the site referred to above, no actions other than those which serve to eliminate immediate danger or the presenting of a person can be performed.

#### Section 84

##### Prior Interrogation

The execution of house or personal searches, or a search of other premises and land, is permitted only after the prior interrogation of those that are to be subjected to such actions and only if the interrogation did not achieve a voluntary release of the sought property or the elimination of its reasons that led to this action. Prior interrogation is not necessary if the matter cannot be delayed and interrogation cannot be conducted immediately.

##### Enforcement of Searches and Entries into Residences, Other Premises and Land

#### Section 85

##### Heading Omitted

(1) The authority carrying out the house search or the search of other premises is obligated to allow the presence of a person who is subject to the action or any adult member of their household or, in the case of the search of other premises, also their employees. They are obligated to instruct these persons on the right to their presence.

(2) A person that is not involved in the matter shall be taken along for the house and personal search. The authority performing the search must prove its authority.

(3) The transcript on the search should also include whether compliance with the provisions of the prior interrogation was fulfilled or an indication of the reasons for their non-compliance. If the release or seizure of property occurred during the search, information referred to in [Section 79 Subsection 5](#) shall be included in the transcript.

(4) The authority that carried out the action shall immediately, and if that is not possible, within 24 hours, issue the person who was subject to the search a written confirmation of the results of the action, as well as on the acquisition of the property that was released or removed, or a copy of the transcript.

(5) The provisions of [Subsection 1 through 4](#) shall apply accordingly upon entry in a residence, other premises, and land. The presence of persons referred to in [Subsection 1](#) however, may be refused and the person referred to in [Subsection 2](#) may not be taken along upon entry into the residence if such could endanger their life or health.

#### Section 85a

(1) A person who is subject to a house search, search of other premises and land, or a personal search, or an entry into their residence, is obligated to tolerate such an action.

(2) If a person who is subject to the action referred to in [Subsection 1](#) does not permit the performance of such action, the authorities carrying out the action are entitled to overcome the resistance of such person or the obstacles they create after previous futile attempts. This fact shall be recorded in the transcript ([Section 85 Subsection 3](#)).

#### Section 85b

#### Heading Omitted

(1) When conducting a house search or search of other premises which an attorney practices law in, and if there may be documents that contain facts which are subject to the confidentiality of the attorney, the authority performing the action must seek the cooperation of the Czech Bar Association (hereinafter referred to as the "Chamber"); the authority performing the action is entitled to peruse the contents of these documents only in the presence and with the consent of the Chamber representative, who is appointed from among its employees, or among attorneys by the President of the Chamber. The opinion of the Chamber representative is to be noted in the transcript, pursuant to [Section 85 Subsection 3](#).

(2) If the Chamber representative refuses to grant the approval under [Subsection 1](#) the documents must, in the presence of the authority performing the action, an attorney and a Chamber representative, be secured so that their contents cannot be perused by anyone or destroyed or damaged; after that, the documents in question must be immediately returned to the Chamber. The Chamber shall return those documents to the attorney immediately after the deadline under [Subsection 5](#) for filing a petition has expired. The Chamber shall proceed similarly, if the petition was dismissed, and even in the case of some documents; in which case the Chamber returns only those documents which regard the rejection of the petition to the attorney. The Chamber shall return the documents to the attorney immediately after it was briefed on the procedure under [Subsection 6](#).

(3) In the case referred to in [Subsection 2](#), first sentence, the approval of the Chamber representative may be replaced upon the petition of the authority that ordered the house search or search of other premises based on the decision of the judge closest to the higher court, where the presiding judge, or a judge, is entitled to order the house search or search of other premises pursuant to [Section 83 Subsection 1](#) and [Section 83a Subsection 1](#). This is applicable even when the search of other premises was carried out by the police authority according to [Section 83a Subsection 3](#); in this case the petition is submitted by the presiding judge and in the preliminary hearing, the public prosecutor.

(4) The petition, in addition to general requirements ([Section 59 Subsection 4](#)), must include the labelling of the documents which the petitioner seeks for the replacement of the approval of the Chamber representative for the perusal of their contents, and the presentation of the facts showing why the disapproval of the Chamber representative for the peruse of the contents of such documents should be replaced by the decision of a judge under [Subsection 3](#). A transcript must be attached to the petition, where the disapproval of the Chamber representative is recorded, in order that the authority performing the action may peruse the contents of the documents.

(5) The petition must be submitted within 15 days from the date on which the Chamber representative refused to grant the approval to peruse the documents, in respect of which the petitioner seeks the replacement of the consent of the Chamber representatives to peruse the documents under [Subsection 4](#).

(6) A petition that does not contain all the particulars, or which is confusing or vague, shall be disregarded by the judge; the provisions of [Section 59 Subsection 4](#), third and fourth sentences shall not apply. The judge shall proceed similarly if the petition was filed late or if it was submitted by someone who is not entitled to the petition. The judge shall advise the petitioner and the Chamber on this procedure without undue delay.

(7) If the judge did not act in accordance with [Subsection 6](#), they shall discuss the petition, without undue delay, at a public hearing and order the Chamber to present them with the documents, regarding which the petitioner seeks the replacement of the approval of the Chamber representative, to peruse their contents. Among other actions, the judge shall also verify whether the security of the confidentiality of the documents submitted by the Chamber was not breached and shall peruse their contents; at the same time they will take measures to ensure that the petitioner or anyone else is not able see the contents of the documents at a public hearing.

(8) If the public hearing is adjourned, the judge will secure the documents so that no one can ascertain their contents, or destroy or damage them.

(9) The judge will grant the petition if they come to the conclusion that the documents do not contain facts upon which the attorney in question is obliged to keep confidential; otherwise they shall dismiss the petition.

(10) If the judge grants the petition or grants it in part, they shall immediately after the full force and effect of the decision, pass the documents, with regards to which the approval of the Chamber representative to peruse their content was replaced, to the authority performing the action, and order them to return the document back to the Chamber as soon as they have perused their contents; this does not apply should such documents be used as evidence in criminal proceedings. The judge shall return the documents by which the petition was dismissed to the Chamber immediately after the full force and effect of the decision.

(11) In the event that the documents cannot be handed over to the authority performing the action, the Chamber, or to their representatives personally, then they will be delivered to them on the next working day following the date on which the decision came into full force and effect, to the authority performing the action, or the Chamber through the judicial server, or a judicial guard.

(12) The document in [Subsection 1 through 11](#) refers to the written document or its part, as well as other information mediums.

## Section 85c

### Implementation of Evidence in an Apartment, Residence, Other Premises and Land

The provisions of [Section 83](#), [83a](#), [84](#), [85](#), [85a](#) and [85b](#) are applicable even if the places referred to in these provisions are in need of reconstruction, recognition, on-site assessment or an examination trial. The nature of such action implies that it cannot be performed elsewhere and the person to whom the act is done did not give their consent.

## SUBDIVISION SIX

### Seizure and Opening of Consignments, their Replacement and Monitoring

## Section 86

### Seizure of Consignments

(1) If it is necessary to determine the contents of undelivered mail, other shipments and telegrams for the clarification of facts relevant to criminal proceedings in a specific case, the presiding judge and in the preliminary hearing, the public prosecutor, will order the post office or a person responsible for their transportation to hand such over to them, or in the preliminary hearing either to the public prosecutor or the police authority.

(2) Without the order referred to in [Subsection 1](#), the shipment of a consignment may be delayed upon the order of the police authority provided that it is an urgent matter and the court order cannot be obtained in advance. The police authority is obliged to notify the public prosecutor on the delay of the consignment within 24 hours. If the post office or the person performing the transport of the consignments does not receive an order in accordance with [Subsection 1](#) within three days, the shipment of consignments can be deferred no longer.

## Section 87

### Opening of Consignments

(1) The consignment released pursuant to [Section 86 Subsection 1](#), may be opened only by the presiding judge, and in the preliminary hearing, the public prosecutor or the police authority with the authorisation of a judge.

(2) Opened consignments are referred to the addressee and if their residence is unknown and if the consignment is not intended into own hands, then to any of their family members; otherwise, the consignment is returned to the sender. However, if there is a concern that the handing over of the consignment could threaten to obstruct or complicate the purpose of the criminal prosecution, the consignment is attached to the case file; if appropriate, the contents are communicated to the addressee via a letter or telegram. If their address is not known and if the consignment is not intended for delivery into their own hands, it is then communicated to one of their family members.

(3) Consignments that are not considered necessary to open are immediately passed to the addressee or returned to the post office or to the sender.

## Section 87a

### Replacement of Consignment

(1) In the interest of identifying persons involved in the handling of a consignment containing narcotic substances, psychotropic substances, precursors, poisons, radioactive materials, counterfeit money and booked securities, firearms or weapons of mass destruction, ammunition and explosives, or other items that require special permissions for their possession, items intended to commit a criminal offence, or items of the committed criminal offence, the presiding judge and in the preliminary hearing, the public prosecutor may, with the consent of the judge, order the replacement of the contents of such consignment with a different one, and thus the altered consignment is then passed over to the next transport.

(2) The replacement is performed by the police authority that will make a written record of it and ensure the storage of the replaced items and materials. The replaced items are treated as objects removed.

## Section 87b

### Monitored Delivery

(1) The public prosecutor may, in the preliminary hearing, order for the delay of the consignment for which there is reason to suspect that it contains items referred to in [Section 87a](#), if it is necessary to clarify the criminal offence or identify all offenders, and the determination of the necessary facts by other means would be ineffective or substantially more difficult. Monitoring of the consignment should be performed by the police authorities according to the instructions of the public prosecutor; against the persons who handle the monitored consignment, while they do not carry out any actions leading to the release or seizure of items. A transcript shall be written on the course of the monitoring of a consignment and, if necessary, photographs or other records should be made.

(2) The police authority may initiate the monitoring without the order referred to in [Subsection 1](#), if the matter cannot be delayed and the order cannot be obtained in advance. They will notify the public prosecutor of this action without undue delay and follow their instructions.

(3) During the monitoring of the consignment, the police authority may carry out the necessary measures to ensure

that the consignment of items referred to in [Section 87a Subsection 1](#) or the replacement items would, with the knowledge and supervision of the customs officers, leave the Czech Republic abroad or vice versa or from abroad through the territory of the Czech Republic to the third country.

(4) The police authority shall terminate the monitoring of the consignment on the order of the public prosecutor, and if it is clear that the handling of the consignment constitutes a serious danger to life or health, serious damage to property, or if there is a serious risk that it will not be possible to further monitor the consignment, even without such an order. If necessary, simultaneously with the termination of the monitoring of a consignment, they will take further action against the possession of the items that make up the contents of the consignment; this shall not apply if the monitored consignment passes through national borders and its monitoring will be assumed, within international cooperation, by a competent foreign authority.

#### Section 87c

### Common Provisions

Pursuant to the provisions of [Section 86 through 87c](#), a consignment is an article conveyed in any manner, whether using mail or any other persons, including hidden transport.

## SUBDIVISION SEVEN

### Interception and Recording of Telecommunications

#### Section 88

(1) If there is a criminal proceeding for a particularly serious criminal offence or any other intentional criminal offence where the prosecution is stipulated in an international treaty, an order for interception and recording of telecommunications may be issued if it may be reasonably expected that it will aid in obtaining all the facts relevant to the criminal proceeding and there is no other way to achieve the purpose, or if it otherwise significantly reduces its achievement. The Police of the Czech Republic perform the interception and recording of telecommunications for the needs of all law enforcement authorities. The interception and recording of telecommunications traffic between the defence counsel and the accused is inadmissible. If the police authority finds during the interception and recording of telecommunications that the accused has communicated with their defence counsel, they are obligated to immediately destroy the records and information learned in this context and they are not allowed to use it in any way. The transcript on the destruction of the record must be filed.

(2) The presiding judge and, in preliminary proceedings upon the petition of the public prosecutor, the judge, is entitled to warrant the interception and recording of telecommunications. If there is a criminal proceeding for an intentional criminal offence, the prosecution of which is governed by the applicable international treaty, the order for the interception and recording of telecommunications must be issued in writing and must be justified, including a specific reference to the applicable international treaty. The order for the interception and recording of the telecommunications service shall include a determined user address or a user device and the user if their identity is known, and the period during which the interception and recording of telecommunications traffic is conducted cannot be longer than four months; the justification must include the specific facts that justify the issue of such order as well as its period. The order for the interception and recording of telecommunications shall immediately be forwarded to the police authority. In the preliminary hearing, the judge shall send a copy of the order for the interception and recording of telecommunications to the public prosecutor without undue delay.

(3) The police authority is obliged to continuously assess whether the reasons which led to an order for the interception and recording of telecommunications are still valid. If the reasons have expired, they are obligated to immediately terminate the interception and recording of telecommunications even before the end of the period referred to in [Subsection 2](#). They will immediately notify the presiding judge in writing, who issued the order for the interception and recording of telecommunications, and in the preliminary hearing, the public prosecutor and the judge.

(4) Based on the assessment of the current course of the interception and, recording of telecommunications, the judge of a superior court and, in the preliminary hearing upon the petition of the public prosecutor, deputy county court judge may extend the duration of the interception and recording of telecommunications traffic even repeatedly, however, always only for a maximum period of four months.

(5) The law enforcement authority may, without the order for the interception and recording of telecommunications, order the interception and recording of telecommunications or conduct it themselves if there is a criminal proceeding for the criminal offence of human trafficking ([Section 168 of the Penal Code](#)), the delegation of custody of a child to someone else ([Section 169 of the Penal Code](#)), restriction of personal freedoms ([Section 171 of the Penal Code](#)), extortion ([Section 175 of the Penal Code](#)), kidnapping of a child and persons suffering from a mental disorder ([Section 200 of the Penal Code](#)), violence against a group of people or an individual ([Section 352 of the Penal Code](#)), or dangerous threats ([Section 353 of the Penal Code](#)), if the user of the intercepted unit agrees to such measure.

(6) If the record of the telecommunications service is to be used as evidence, it is necessary to accompany it with the transcript, giving the place, time, manner and contents of the record, as well as the authority which issued the record. The police authority is obliged to label other records, securely store them so as to protect them against unauthorised misuse, and indicate the place of storage in the transcript. In another criminal case other than the one in which the interception and recording of telecommunications service was performed, the recording may be used as evidence if there is a criminal prosecution even in this matter for a criminal offence referred to in [Subsection 1](#), or with the consent of the user by the intercepted station.

(7) If the interception and recording of the telecommunications service did not find any facts relevant to the criminal proceedings, the police authority, after approval by a court and in preliminary hearings, the public prosecutor, must immediately destroy all records after three years from the final conclusion of the matter. If the police authority was informed of an extraordinary appeal within the set deadline, they shall destroy the records of the interception after the decision on the extraordinary appeal or after a final conclusion on the matter. The police authority shall send a transcript on the destruction of

the record of the interception to the public prosecutor, whose decision finally concluded the matter and in proceedings before the court, to the presiding judge in the first instance, for the record on file.

(8) The public prosecutor, by whose decision the case was finally concluded and in proceedings before the court, the presiding judge in the first instance after the final conclusion of the matter, shall inform the person referred to in [Subsection 2](#), if known, on the ordered interception and recording of telecommunications service. The information includes the designation of the court that issued an order for the interception and recording of telecommunications service, the duration of the interception and the date of the conclusion. Part of the information includes the instructions on the right to submit, within six months of receipt of this information, a petition to review the legality of the order for the interception and recording of telecommunications service to the Supreme Court. The presiding judge shall pass the information immediately after the final conclusion of the case to the court in the first instance; the public prosecutor, by whose decision the case was finally concluded, will pass the information immediately after the deadline for the review of their decision to the Attorney General in accordance with [Section 174a](#).

(9) The presiding judge or the public prosecutor does not submit the information under [Subsection 8](#) in proceedings on particularly serious crimes committed by an organised group, in proceedings on criminal offences committed for the benefit of an organised criminal group, in proceedings for criminal participation in an organised criminal group ([Section 361 of the Penal Code](#)), or if the criminal offence involved more people and in relation to at least one of them the criminal proceedings have not yet been finally concluded or if it is against the person to whom the information was submitted, is the subject of criminal proceedings, or if providing such information could defeat the purpose of the criminal proceedings, including those referred to in [Subsection 6](#), or if it could lead to threats to national security, life, health, or the rights and freedoms of individuals.

#### Section 88a

(1) If the clarification of the facts relevant to the criminal proceedings should be established to implement the data on the conducted telecommunications service that is subject to telecommunications service confidentiality or which is subject to the protection of personal and outsourcing data, then the presiding judge and in the preliminary hearings, the judge, shall order that the legal or natural persons who perform telecommunications activity, notified them and, in preliminary hearings, notified either the public prosecutor or the police authority. The order for finding information on the telecommunications service must be given in writing and must be justified.

(2) An order under [Subsection 1](#) is not required if the user of the telecommunications equipment, whom the data on the performed telecommunications service concern, gives an approval for the provision of the information.

### CHAPTER FIVE

#### Evidence

#### Section 89

##### General Provisions

(1) In a criminal prosecution it is required to prove to the necessary extent, in particular:

- a) whether an act is seen as a criminal offence,
- b) whether the act was committed by the accused or based on what motives,
- c) significant factors affecting the assessment of the nature and seriousness of the act,
- d) the relevant circumstances to assess the offenders' personal circumstances,
- e) the significant circumstances allowing the determination of the consequences, the amount of damage and unjust enrichment, caused by the criminal offence,
- f) the circumstances that led to the criminal activity or allowed it to be committed.

(2) Evidence may be anything that may help to clarify matters, in particular the testimonies of the accused and witnesses, expert opinions, items and documents relevant to the criminal proceedings, and examinations. Each party may seek, submit, or propose the implementation of evidence. The fact that the law enforcement authority did not seek or request it is not grounds for the rejection of such evidence.

(3) Evidence obtained by unlawful coercion or threat of coercion may not be used in the proceedings except when used as evidence against the person that used coercion or threatened coercion.

#### SUBDIVISION ONE

##### Testimony of the Accused

#### Section 90

##### Summons and Presentation

(1) If the accused, who was duly summoned to give evidence, fails to appear without sufficient excuse, may be

presented; they must be instructed on this and any other consequences of the failure ([Section 66](#)) to attend in the summons.

(2) The accused may be presented without a prior summons if it is necessary for the successful performance of the criminal proceedings, especially when they are in hiding or do not have a permanent residence.

(3) The competent police authority must be requested for the presentation of persons. The commander or chief must be requested to present a member of the armed forces or armed corps in active service.

### **Interrogation of the Accused**

#### Section 91

(1) Before the first interrogation, it is necessary to determine the identity of the accused, to ask them about their family, property, and income situation and previous punishments, to explain to them the substance of the allegations, and instruct them on their rights. The contents of the instructions are to be noted in the transcript. If the identity of the accused cannot be immediately identified, it is required that the transcript includes all information preventing the person from being confused with someone else.

(2) If there are several accused, they are questioned separately.

#### Section 92

(1) Interrogation of the accused is held in such a way as to provide a complete and clear picture of the facts relevant to the criminal proceedings. The accused shall not, in any way, be compelled to give evidence or a confession. It is necessary to be careful of their character during the interrogation.

(2) The accused must be given the opportunity to comment on the allegations in detail, in particular to continuously portray the facts that are the subject of the allegations, indicate the circumstances that deplete or refute the allegations, and to offer evidence about them.

(3) The accused may be asked questions to supplement the statement or to remove any incompleteness, ambiguities, and contradictions. Questions must be asked clearly and intelligibly, without false pretence and false circumstances; the accused must not be indicated in how to respond to them.

#### Section 93

(1) The accused may be allowed to look to the written notes prior to their response, which must be, if requested, made available to the interrogator; this circumstance must be marked in the transcript.

(2) If the interrogation is to determine the identity of any person or property, the accused will be asked to describe them; only then can the person or property be shown to them, usually among several persons or several items of the same kind.

(3) If it is necessary to determine the authenticity of the handwriting, the accused may be asked to write the required number of words; however they may not be compelled to do so in any way. However, the accused is always obliged to tolerate the actions necessary for the determination of their identity.

#### Section 94

### **Repealed**

#### Section 95

(1) The statement of the accused is usually recorded in the transcript according to the dictation of the interrogator, in direct speech and, if possible, literally.

(2) Unless it is a transcript of the main trial or public hearing, the transcript must be presented to the accused to read after the hearing, or if requested, read to them. The accused has the right to request that the transcript be supplemented or that any errors are corrected in accordance with their statements. The accused must be instructed on this right.

(3) It is required that the transcript of the interrogation, which was carried out without a reporter, is read to or submitted for reading to the interrogated person in the presence of an impartial person before signing. If the interrogated person has any objections against the contents of the transcript, they must be discussed in the presence of an impartial person and the outcome of the discussion must be included in the transcript.

#### Section 96

### **Repealed**

## **SUBDIVISION TWO**

### **Witnesses**

#### Section 97

### **Obligation to Testify**

Everyone is obligated to appear upon a summons and testify as a witness to what they know about the criminal offence and the offender, or the circumstances relevant to the criminal proceedings.

Section 98

### **Summons and Presentation**

If a witness who was duly summoned fails to appear without sufficient excuse, they may be presented. The witness must be instructed on this and any other consequences of the failure ([Section 66](#)) to appear in the summons. If a member of the armed forces or armed corps in active service does not appear, it is necessary to request their commander or chief to state the reason why the summoned person did not appear, or to present them.

Section 99

### **Prohibition of Interrogation**

(1) A witness must not be interrogated about the circumstances relating to classified information protected by a special Act which they are obliged to keep confidential, unless this requirement has been exempted by the competent authority; the exemption may be denied only if the testimony would cause serious damage to the State.

(2) A witness must not be interrogated if their testimony would violate the State imposed or recognised obligation of confidentiality, unless this obligation was exempted by the competent authority or those in whose interest such obligation lies.

(3) The prohibition to interrogate pursuant to [Subsection 2](#) shall not apply to testimonies concerning criminal offences, based on which the witness has the obligation to notify in accordance with [the Penal Code](#). Similarly it also does not apply to testimonies about classified information that is classified under a special Act as Confidential or Classified.

Section 100

### **Right to Refuse to Testify**

(1) A direct relative of the accused, their sibling, adoptive parent, adopted child, spouse or partner has the right to refuse to testify as a witness; if there are more accused persons and a witness exists only in relation to one of them, then they have the right to refuse to testify in regards to other accused persons only if it is not possible to separate the testimony that concerns them from the testimony concerning the accused to whom the witness is in such relation.

(2) A witness is entitled to refuse to testify if the testimony would thereby cause the possibility of their own criminal prosecution, their direct relative, their siblings, adoptive parents, adopted child, spouse or partner or other persons in the family or similar relationship, whose detriment would rightly be felt as their own.

(3) However, the obligation to testify as a witness cannot be refused by those who have the obligation to notify under [the Penal Code](#) regarding the criminal offence which the witness testimony concerns.

### **The Interrogation of a Witness**

Section 101

(1) Before the interrogation of the witness it is always necessary to determine their identity, their relationship to the accused, instruct them on their right to refuse to testify and, if necessary, on the prohibition to interrogate or the possibility of procedures under [Section 55 Subsection 2](#), as well as the fact that they are obliged to testify the whole truth and nothing but the truth. Furthermore, they must also be instructed about the importance of the testimony in terms of the general interest and penal consequences of a false testimony. If the interrogated witness is younger than fifteen years, they must be instructed accordingly.

(2) At the beginning of the interrogation the witness must be interrogated on their relationship to the case and the parties involved and, if necessary, other important factors in determining their authenticity. The witness must be given the possibility to coherently testify about everything they know about the matter, and the source of their knowledge of the circumstances presented.

(3) The witness may be asked questions to supplement the testimony or to remove any incompleteness, ambiguities and contradictions. The witness may not be asked questions that would include circumstances that are yet to be ascertained from their testimony.

(4) If it is necessary to determine the authenticity of the handwriting, the witness may be asked to write the required number of words.

Section 101a

If the police authority does not find a reason for recording a transcript of the interrogation in the manner in compliance with [Section 55 Subsection 2](#), despite the fact the witness requests it and states specific facts that according to them justifies such a procedure of transcript recording, then the police authority submits the matter to the public prosecutor to examine the accuracy of their procedure.

If there is no danger of delay, they shall defer the interrogation of the witness until the time when the public prosecutors take the appropriate measures. Otherwise the witness is interrogated and until the adoption of the measures of the public prosecutor, the transcript is handled as to keep the identity of the witness confidential.

#### Section 102

(1) If a witness who is to be interrogated on the circumstances is a person younger than fifteen years old and, due to their age, the recovery of the memory could adversely affect their mental and moral development, then it is necessary to approach the interrogation and the content with extra care so that it would not be required to repeat the interrogation in further proceedings; a pedagogue or another person with experience in the education of young people who would contribute to the proper management of the interrogation in terms of the subject matter and the level of the intellectual development of that person is admitted for the interrogation. If it can aid in the correct conduct of the interrogation, their parents may take part as well. Persons who are admitted may propose to defer the action to a later time and, during the performance of such an action, they may also propose its suspension or termination if the performance or continuation of such an action could adversely affect the mental state of the interrogated person. If there is no danger of delay, the law enforcement authority shall grant the petition.

(2) The same person should be interrogated in further proceedings only if necessary. In proceedings before the court, it is possible to produce evidence by reading from the transcript, based on the decision of the court, even without the conditions set out in [Section 211 Subsection 1](#) and [2](#). A person who was admitted for interrogation, shall be interrogated on the correctness and completeness of the record, on the manner in which the interrogation is conducted, and also on the manner in which the interviewed person testified.

#### Section 102a

(1) If the person to be interrogated as a witness is a person who is under active duty in the police authority or is a police officer from another State,

- a) is used in criminal proceedings as an agent or performs fictitious transfers, or
- b) is directly involved in the use of an agent or in performing fictitious transfers,  
they are interrogated as a witness with their identity and appearance kept confidential.

(2) In exceptional circumstances and provided that there is no threat of damage to the life, health, or the other official activities of the person due to an interrogation referred to in [Subsection 1](#) or any danger to the life or the health of a person close to them, they may be interrogated as a witness without concealing their identity or appearance and only on the petition of the public prosecutor on the basis of the pronouncement of the relevant director of the security forces.

#### Section 103

The provisions of [Section 93 Subsection 1](#) and [2](#) and [Section 95](#) on the interrogation of the accused shall be applied to the interrogation of a witness accordingly.

#### Section 104

##### **Witness' Fee**

(1) A witness is entitled to the reimbursement of any necessary costs under a special legal regulation governing travel costs' compensation and the proven loss of earnings (witness' fee). The claim expires if the witness does not apply for it within three days after their interrogation or they were advised that the interrogation will not occur; a witness must be notified of this fact.

(2) The witness (or another person), with the exception of the suspect or the accused, is entitled to it under [Subsection 1](#) if they also appear for a summons from the law enforcement authority to perform another act of inquiry.

(3) The amount of the witness' fee is usually determined immediately after claiming the witness' fee by those who summoned the witness (or another person) referred to in [Subsection 2](#) and, in proceedings before the court, by the presiding judge.

### **SUBDIVISION THREE**

#### **SOME SPECIAL METHODS OF EVIDENCE**

##### Section 104a

##### **Confrontation**

(1) If the testimony of the accused, in serious circumstances, is contrary to the testimony of a witness or a co-defendant, the accused may face the witness or co-defendant in person.

(2) If the testimony of the witness, in serious circumstances, is contrary to the testimony of the accused or another witness, the witness may face the accused and another witness in person.

(3) Confrontation can only be done after each of the persons to be confronted has previously been heard and their testimony has been recorded in the transcript. When confronted the interviewed person shall be invited to personally testify to the other person, in direct speech, on their personal claims about the circumstances that do not match the confronted persons'

testimonies, or to state other circumstances that relate to their claims and which they have not testified on yet. Persons standing face to face may ask each other questions only with the consent of the interrogator.

(4) The provisions on the statement of the accused and witnesses are applicable for the confrontations.

(5) A person younger than fifteen years may be confronted only in exceptional cases if it is necessary to clarify the matter; in such a case [Section 102](#) shall apply accordingly. A witness whose identity is being concealed for the reasons set out in [Section 55 Subsection 2](#) may not be confronted.

(6) If it is necessary to hear the confronted persons again after the confrontation, their interrogation shall be made separately.

(7) The confrontation is essentially carried out only in proceedings before the court; before filing an indictment the confrontation may be done only in exceptional circumstances when it is expected that its implementation will significantly contribute in clarifying the matter, and that matters of the same objective cannot be achieved by other means.

#### Section 104b

##### Recognition

(1) Recognition is conducted if it is important to the criminal proceedings that the suspect, accused, or witness re-identify the person or the item and thus determine their identity. At least one person who is not involved in the matter is always taken along for the implementation of the recognition.

(2) The suspect, the accused, or a witness who should identify the person or the item are always interrogated before the recognition on the circumstances under which a person or an item was perceived and special features or traits which make it possible to identify a person or an item. A person or an item that is to be identified must not be shown to them before the recognition.

(3) Where a person is to be identified, the suspect, the accused, or a witness is shown the person among at least three other persons who are not significantly different. The person to be identified is asked to place themselves anywhere among the shown persons. If a person is to be identified by voice and not by appearance, they are allowed to speak in any order among other persons with similar voice characteristics.

(4) If the person who is to be identified cannot be shown, recognition can be made from a photograph which is shown to the suspect, the accused, or a witness with similar photographs of at least three other people. This procedure may not immediately precede the recognition by showing the person.

(5) If an item is to be identified, the suspect, accused, or a witness is shown it in a group of items that are preferably of the same kind.

(6) The provisions of the testimonies of the accused and the witnesses otherwise apply to the recognition.

(7) Recognition may be performed based on the nature of the items so that the identifying person does not come into immediate contact with the identified person. If the recognition is conducted involving persons younger than fifteen years, [Section 102](#) shall apply accordingly. Recognition in the presence of a witness whose identity is concealed due to the reasons set out in [Section 55 Subsection 2](#) may be performed under the conditions of confidentiality of their appearance and personal data, if the witness is the identifying person.

(8) After the recognition, the suspect, accused, or a witness shall be interrogated again provided it is necessary to eliminate discrepancies between their testimony and the results of the recognition.

#### Section 104c

##### Investigative Test

(1) An investigative test takes place if the facts found during the criminal proceedings are to be verified or clarified by observation in artificially created or altered conditions, or new facts important for the criminal proceedings are to be found.

(2) It is not permitted to implement the investigative test if it is inappropriate in terms of the circumstances of the case or the suspect, accused, co-defendant, victim, or witness, or the purpose of the investigative test may be achieved otherwise.

(3) At least one person not involved in the matter must take part in the investigative test that is conducted in the preliminary hearing, unless the impossibility of ensuring their presence during the investigative test could defeat its execution. If it is necessary given the nature of the matter and the facts that came to light in the criminal proceedings so far, an expert or the suspect, accused, or a witness is invited to take part in the investigative test. Their participation in the investigative test is governed by the provisions that apply to their interrogation. If the investigative test involves a person younger than fifteen years, [Section 102](#) shall apply accordingly..

(4) A suspect, accused, victim, or witness who has the right to refuse to testify cannot be compelled to perform any activities relating to the investigative test in any way.

#### Section 104d

##### Reconstruction

(1) A reconstruction takes place if the reconstruction and restoration of the situation and circumstances under which the criminal offence was committed or which have a substantial connection with it, may verify the statement of the suspect, accused, their co-defendant, victim, or witness if other evidence presented in the criminal proceedings is not sufficient to clarify the matter.

(2) The provisions on the investigative test are appropriately applied to the procedure of the reconstruction.

#### Section 104e

### On-site Verification

(1) On-site verification takes place, if required, in the presence of the suspect, accused, or witnesses in order to supplement or clarify information relevant to the criminal proceedings relating to a particular place.

(2) The provisions of the investigative test are appropriately used in the procedure of on-site verification.

## SUBDIVISION FOUR

### Experts

#### Invitation of Experts

#### Section 105

(1) If the clarification of the facts relevant to the criminal proceedings requires the necessary expertise, the law enforcement authority will request a professional opinion. If such a procedure is not sufficient due to the complexity of the assessed issue, an expert is invited by the law enforcement authority. In the preliminary hearings, an expert is invited by the law enforcement authority which considers an expert opinion to be necessary for the decision if the matter was referred back for further investigation by the public prosecutor and, in proceedings before the court, the presiding judge. The accused and, in proceedings before the court, the public prosecutor, shall be notified on the invitation of an expert. Another person is notified on the invitation of an expert if it is necessary for such a person to perform or tolerate something for the purpose of the expert opinion.

(2) In selecting a person who is to be invited as an expert, it is important to take the reasons for which the expert is excluded from the presentation of an expert opinion under the special Act into account. In seeking a professional opinion, the law enforcement authority shall consider whether the person from whom the professional opinion is requested is not biased in regard to their relationship to the accused, other persons involved in the criminal proceedings, or their relationship to the case.

(3) Objections against the expert may be raised on grounds set out by the special Act. In addition, objections can be raised against the professional interests of an expert or on the wording of the questions given to the expert. In the preliminary hearings, the merits of such objections shall be judged by the public prosecutor and, in proceedings before the court, the presiding judge before whom the proceeding is being conducted during the time of the objections' notification; if the objections are raised by appeal they shall be reviewed by the authority competent to decide on the appeal. If the authority grants the objections and the reasons for requesting an expert opinion still exist, they will take steps to either request an expert opinion by another expert or by re-phrasing the questions; conversely they shall instruct the person who raised the objection that no reasons for the objection were found. The opinion to the objections raised in an appeal normally forms part of the justification of the decision of the appeal.

(4) If it is particularly important to clarify the facts, it is necessary to invite two experts. Two experts must be invited if it regards an examination or an autopsy of a corpse ([Section 115](#)). The physician who treated the deceased for a disease, which immediately preceded the death, may not be invited as an expert.

(5) Pursuant to [Subsection 1](#), even a person who is, under special Act, registered in the registry of experts and a natural person and legal entity that has the required professional expertise may be asked for their professional opinion. The public authority shall always submit the professional opinion to the law enforcement authorities free of charge.

#### Section 106

An expert must be instructed on the consequences of the failure to appear on summons ([Section 66](#)) and the obligation to report the facts for which they could be excluded or could otherwise prevent them to be active in the matter as an expert without undue delay. The expert must also be instructed about the importance of the expert opinion in terms of general interest and the criminal consequences of perjury and a knowingly false expert opinion; this also applies to an expert who submitted an opinion on the basis of a request of a party pursuant to [Section 89 Subsection 2](#).

#### Section 107

### Preparation of Opinion

(1) An expert who is responsible for an act shall be provided with the necessary explanations from the files, and their functions should be defined. At the same time, it is therefore important that the expert does not evaluate the evidence and solve any legal issues. If it is necessary for the submission of the opinion, the experts are allowed to view the files or the files are loaned to them. They may also be allowed to be present during the interrogation of the accused and the witnesses to ask them questions related to the subject matter of the expert investigation. In justified cases, experts will be permitted to take part in

another act of the criminal proceedings, provided such an act is important for the expert opinion. The expert may also suggest that other evidence is first needed to clarify the circumstances necessary for the submission of the opinion.

(2) An expert invited along to submit an expert opinion on the cause of death or the deceased person's medical condition is entitled to require medical documentation concerning such persons; in other cases they may require medical documentation under the conditions provided by the special Act.

(3) Experts are usually requested to prepare a written version of the expert opinion. The expert opinion is also served to the defence counsel at the expense of the defence.

#### Section 108

##### **Interrogation of an Expert**

(1) If an expert has prepared a written expert opinion, it is enough to refer to it and confirm it during the interrogation. If the opinion was not prepared in writing, the expert shall dictate it for the transcript during the interrogation.

(2) If several experts were invited who, after a mutual consultation, arrived to affirmative conclusions, the expert opinion shall be submitted by an expert appointed to do so by the others; if their opinions are different, each expert must be heard separately.

(3) In the preliminary hearing, the expert opinion may be omitted if the police authority or the public prosecutor does not doubt the reliability and completeness of the submitted written expert opinion.

#### Section 109

##### **Errors of Opinion**

If there are doubts about the correctness of the opinion, or if the opinion is unclear or incomplete, it is necessary to ask an expert to explain. If that bears no results, another expert is invited along.

#### Section 110

##### **Opinions from an Institute**

(1) In exceptional cases, particularly in difficult cases requiring special scientific assessments, the police authority or the public prosecutor and, in proceedings before the court, the presiding judge may invite a public authority, scientific institute, university or a specialised institution to provide expert services to submit an expert opinion or an examination of an opinion filed by an expert.

(2) A person who was invited to provide an expert opinion or to examine an opinion filed by an expert under [Subsection 1](#) shall provide a written opinion. It will include the identification of the person or persons who prepared the opinion and if necessary, they may be heard as an expert; if it was necessary to invite two experts ([Section 105 Subsection 4](#)), they will list at least two such persons.

(3) In selecting persons referred to in [Subsection 2](#) it is important to take the reasons for which the expert is excluded from submitting the expert opinion under special Act into account.

(4) The provisions of [Section 105 Subsection 3](#) are similarly applicable when requesting the opinion from an institute.

#### Section 110a

If the expert opinion submitted by a party has all the elements required by law and includes an expert clause that they are aware of the consequences of giving a knowingly false expert opinion, then the performance of such evidence is the same as if it was an expert opinion requested by a law enforcement authority. The law enforcement authority shall allow the experts that were requested for an expert opinion by one of the parties to inspect the file, or will otherwise allow them to become familiar with the information necessary for the preparation of the expert opinion.

#### Section 111

##### **Use of Special Regulations on Experts**

(1) Special regulations apply to the provisions of an expert, their eligibility for this function, and their exclusion from it, on the right to deny the performance of an expert act, and on the oath and reminder of the responsibilities prior to the performance of the expert act, as well as the reimbursement of cash expenses and remuneration (expert fees) for the expert act.

(2) The amount of expert fees is determined by those who invited the expert and, in proceedings before the court, by the presiding judge without undue delay or within two months of invoicing the expert fees. If those who invited the expert disagree with the amount of expert fees, then they shall decide on it by a resolution. A complaint against the resolution with a suspensive effect is permissible.

(3) The expert fees must be paid without undue delay within 30 days after they were granted.

#### **SUBDIVISION FIVE**

## Physical and Documentary Evidence

### Section 112

(1) Physical evidence comprises of items with which or on which the criminal offence was committed, other objects that prove or refute the facts and may also be a means to uncover and identify the criminal offence and its offenders, as well as traces of the criminal offence.

(2) Documentary evidence comprises of documents which prove or refute the facts related to the criminal offence or the accused by their contents.

## SUBDIVISION SIX

### Examination

#### Section 113

#### Purpose of the Examination and its Transcript

(1) The examination is held provided there are facts relevant to the criminal proceedings that are to be clarified by direct observation. An expert is usually invited for the examination.

(2) The examination transcript must provide a full and fair picture of the examination subject; therefore photographs, drawings and other aids are to be attached to it.

#### Section 114

#### Body Examinations and Other Similar Actions

(1) Everyone is required to be subjected to a body examination if it is necessary to find any traces or effects of the criminal offence on their body. A body examination can only be performed by a person of the same sex, unless it is carried out by a physician.

(2) If the evidence requires the performance of a blood test or other similar action, the person concerned is obliged to allow their doctor or healthcare professional to take blood or to perform other necessary actions if it is not associated with any risk to their health. The collection of biological material, which is not associated with an intervention to the physical integrity of a person whom such action concerns, may also be performed by such person, or with their consent also the competent law enforcement authority. At the request of the law enforcement authority, such collection may be performed by a physician or healthcare professional even without the consent of the suspect or accused.

(3) If the evidence requires the determination of the identity of the person who remained at the crime scene, the person in question is obliged to submit to the necessary actions for such findings.

(4) If the actions referred to in [Subsection 1 through 3](#) cannot be carried out due to the resistance of the suspect or the accused, and it is not the act of the taking of blood or other similar actions associated with an intervention to their physical integrity, the law enforcement authority is entitled to overcome such resistance after previous futile attempts; the police authority requires the prior approval of the public prosecutor to overcome the resistance of the suspect. The manner of overcoming the resistance must be proportionate to the intensity of the resistance.

(5) The person must be instructed on their obligations under the preceding Subsections with the notification of the consequences of non-compliance ([Section 66](#)). The suspect or the accused must also be instructed on the possibility of the procedure under [Subsection 4](#).

#### Section 115

#### Examination and Autopsy of a Corpse and its Exhumation

(1) If there is suspicion that the death of a person was caused by a criminal offence, the corpse must be examined and an autopsy must be performed. In such event, the corpse may be buried only with the approval of the public prosecutor. The public prosecutor shall decide on the matter with the utmost urgency.

(2) Exhumation of a corpse may be ordered by the presiding judge and in preliminary hearings, by the public prosecutor.

#### Mental State Examination

#### Section 116

(1) If the mental state of the accused requires examination, an expert in psychiatry is always invited to carry out the task.

(2) If the mental state cannot be examined differently, the court and, in preliminary hearings upon the petition of the public prosecutor, the judge, may order that the accused be subject to observation in a healthcare institution or, if they are in custody, in a special department of the correctional facility. Complaints against this resolution with a suspensive effect are permissible.

(3) If an expert finds symptoms suggesting insanity or diminished responsibility of the accused, they shall also pronounce whether they present a danger to the public if they remain at liberty.

Section 117

Observation of the mental state should not last more than two months; by this time an opinion must be submitted. Upon the justified request of experts, the court and, in preliminary hearings, upon the petition of the public prosecutor, the judge may extend this period, but not by more than a month. A complaint against the extension period is admissible.

Section 118

If there are serious doubts as to whether the capacity of the witness, whose testimony is especially important for the decision, to correctly perceive or testify is substantially reduced, then it is possible to have an expert examination of their competency and mental state. However, the observation of the mental state of a witness under [Section 116 Subsection 2](#) is not permissible.