

# LAW ON MISDEMEANORS

CONSOLIDATED TEXT **1**

## GENERAL PROVISIONS

### Contents of the Law

#### Article 1

This law shall regulate the general conditions for prescribing misdemeanors and misdemeanor sanctions, general conditions for determining misdemeanor liability, imposing and enforcement of the misdemeanor sanctions and the misdemeanor procedure performed by the courts, i.e. based on this and other laws, state administration bodies or organizations and other bodies performing public authorizations, competent to impose misdemeanor sanctions (herein after: misdemeanor bodies).

### Application of the provisions of the Criminal Code and the Criminal Procedure Code

#### Article 2

(1) The provisions of the General part of the Criminal Code shall accordingly apply to the misdemeanor and the misdemeanor liability.

(2) If this Law does not provide otherwise, the courts shall apply the following provisions of the Criminal Procedure Code to the misdemeanor procedure: the basic principles; language, local competence, incompetence consequences and conflict of competences; exemption; accused; attorney; writs; minutes; deadlines; reinstatement; costs; property request; adopting and announcing the decisions; service of writs; summoning, taking into custody, detention of persons, bail and taking a foreigner's travel document; hearing of witnesses; insight; expertise; search of premises and persons; ordinary and extraordinary legal remedies.

#### Part One

## SUBSTANTIVE PROVISIONS

### Chapter one

## GENERAL PROVISIONS

Legality in determining the misdemeanors and prescribing the misdemeanor sanctions

#### Article 3

Nobody shall be imposed a misdemeanor sanction for an act, which prior to its committing has not been determined by a law as a misdemeanor and wherefore a sanction has not been prescribed by a law.

### Misdemeanor sanctions

## **Article 4**

The following shall be imposed for misdemeanor perpetrated under conditions of this Law:

1. Misdemeanor sanctions for adult perpetrators;
2. Misdemeanor sanctions for juveniles;
3. Misdemeanor sanctions for legal entities; and
4. Special misdemeanor measures.

## **Chapter Two**

### **MISDEMEANOR AND MISDEMEANOR LIABILITY**

#### **Misdemeanor**

#### **Article 5**

A misdemeanor shall be an unlawful act determined by law, with attributes determined by law, wherefore a misdemeanor sanction is prescribed.

#### **Liability of a natural person**

#### **Article 6**

(1) A natural person shall be liable for negligence, if the law where the misdemeanor is prescribed does not determine that s/he shall be punished only if the misdemeanor has been committed intentionally.

(2) A responsible person in the legal entity or sole proprietor shall be punished for a misdemeanor when the misdemeanor is committed by his/her activity or by his/her omission of due supervision.

#### **Liability of a legal entity**

#### **Article 7**

(1) The legal entity may be held liable for a misdemeanor only if it is specifically determined by the law in which the misdemeanor is proscribed.

(2) The legal entity shall be liable for a misdemeanor if the misdemeanor is committed by act or omission of due supervision by the competent body or the responsible person in the legal entity, or by act or omission of another person who was authorized to act on behalf of the legal entity, within the framework of his competences or if s/he exceeds his/her authorizations in order to obtain benefit for the legal entity.

(3) The misdemeanor liability of the legal entity does not exclude the liability of the perpetrator of the misdemeanor.

(4) All legal entities, excluding the Republic of Macedonia, the state bodies and bodies within the units of the local self government, shall be held liable for the misdemeanors determined by law.

(5) A legal entity in bankruptcy shall be liable for a misdemeanor committed before the commencement of the bankruptcy procedure where a special measure, confiscation of property, property benefit and seizure of objects, may be imposed only.

## **Liability of a foreign legal entity**

### **Article 8**

A foreign legal entity shall be liable for a misdemeanor if it committed the misdemeanor on the territory of the Republic of Macedonia regardless of having its own branch office or subsidiary, performing activity in the Republic of Macedonia.

## **Liability for a misdemeanor of another**

### **Article 9**

(1) In cases prescribed by law, the parent or a guardian shall be liable for a misdemeanor of a juvenile, if the misdemeanor is committed as a result of omission of due supervision.

(2) The responsible person in the legal entity or sole proprietor, in cases prescribed by law, shall be liable for a misdemeanor committed by an employee of that legal entity or sole proprietor, if the misdemeanor was committed as result of omission of due supervision on the work. The liability of the responsible person in the legal entity or sole proprietor shall not exclude the liability of the perpetrator.

## **Liability of an official within a state body and a unit of the local self government**

### **Article 10**

The official within a state body and a unit of the local self government shall be liable if s/he has committed the misdemeanor in the framework of his/her official authorizations or if s/he has exceeded the official authorizations.

## **Attempt**

### **Article 11**

There shall be no liability for attempted misdemeanor, except in cases prescribed by law.

## **Assistant and abettor**

### **Article 12**

There shall be no liability for assisting and abetting a misdemeanor, except in cases prescribed by law.

## **Chapter Three**

### **MISDEMEANOR SANCTIONS OF ADULT PERPETRATORS**

#### **Types of misdemeanor sanctions for adult perpetrators**

### **Article 13**

The following sanctions may be imposed to adult perpetrators, possible be held liable for committed misdemeanors:

1. fine;
2. admonition;
3. termination of the validity of a driver's license;
4. prohibition to operate a motor vehicle;
5. prohibition to perform a profession, activity or duty;
6. expulsion of a foreigner from the country; and
7. mandatory treatment of alcoholics and drug addicts (persons with addiction diseases).

## **Conditions for imposing misdemeanor sanctions**

### **Article 14**

- (1) The fine shall be prescribed and imposed as a main sanction.
- (2) The admonition shall be imposed instead of the fine for minor misdemeanors.
- (3) The prohibition to perform a profession, activity or duty shall be imposed only when the perpetrator has been imposed a fine.
- (4) Termination of the validity of a driver's license or prohibition to operate a motor vehicle shall be imposed together with a fine, admonition or as individual sanctions in cases determined by law.
- (5) The expulsion of a foreigner from the country shall be imposed together with a fine, admonition or as an individual sanction in cases determined by law.
- (6) The mandatory treatment of alcoholics and drug addicts (persons with addiction diseases) shall be imposed together with a fine or as an individual sanction in cases determined by law.

## **Fine**

### **Article 15**

- (1) The fine for a natural person consists of payment of certain monetary amount which cannot be less than 15 Euro in Denar counter-value, or more than 1000 Euro in Denar counter-value.
- (2) The fine for the responsible person in legal entity or an official or a sole proprietor cannot be prescribed in amount less than 50 Euro in Denar counter-value, nor in amount more than 2000 Euro in Denar counter-value.
- (3) The law which prescribes the misdemeanor can prescribe a fine in amount higher than the amounts determined in paragraphs (1) and (2) of this Article.
- (4) A fine for misdemeanors committed out of self-interest or misdemeanors causing larger property damage may be imposed in amount up to double than prescribed in paragraphs (1) and (2) of this Article or proportionally to the amount of the damage caused or benefit acquired, but not exceeding twenty times the amount of the fine referred to in paragraphs (1) and (2) of this Article.
- (5) This Law can prescribe an amount, for misdemeanors being subject to a fine imposed on the spot, which:
  - doesn't exceed 200 Euro in Denar counter-value for natural persons,
  - doesn't exceed 600 Euro in Denar counter-value for the responsible person in a legal entity, official or a sole proprietor.

## **Timeframe for paying the fine**

### **Article 16**

(1) The timeframe for paying the fine shall be determined in the decision for the misdemeanor which cannot be less than eight days or longer than 30 days from the day when the decision became effective.

(2) In reasonable cases, when the perpetrator does not own sufficient property, is unemployed or has certain disease or in other similar circumstances that justify, payment of the fine in installments may be allowed. In such a case, the way of payment and the timeframe which cannot be longer than six months, shall be determined.

## **Conditional postponement of the payment of the fine**

### **Article 17**

(1) The payment of the fine can be postponed for not longer than one year, provided that the perpetrator does not commit a new misdemeanor, compensates the damage caused by the misdemeanor or removes the harmful effects of the misdemeanor.

(2) If within that timeframe as of paragraph (1) of this Article, an effective decision on a new or previously committed misdemeanor is adopted or if the perpetrator does not compensate the damage or does not remove the harmful effects of the misdemeanor, the imposed fine increased by 20% shall be enforced.

## **Enforcement of the fine**

### **Article 18**

If the perpetrator fails to pay the fine, completely or partially, within the determined timeframe a coercive enforcement shall be applied in accordance with the provisions of the Law on Enforcement.

## **Admonition**

### **Article 19**

(1) An admonition may be imposed for a misdemeanor committed under such circumstances making it particularly petty.

(2) The admonition may be also imposed if the misdemeanor consists of omission of the prescribed obligation, or if the misdemeanor caused damage, and the perpetrator before adopting the decision for the misdemeanor has performed the obligation i.e. has removed or compensated the damage.

## **Termination of the validity of a driver's license**

### **Article 20**

(1) The court may impose a sanction - termination of the validity of driver's license, if a misdemeanor in the traffic safety has been committed that has caused risk of occurrence of a severe consequence and if evidence has been submitted that the perpetrator has reached 100 negative points in public traffic.

(2) The negative points in public traffic shall be prescribed in the Law on Road Traffic Safety.

(3) If the driver has reached or exceeded 100 negative points in public traffic within the last three years, the court shall impose a sanction - termination of the validity of driver's license in the category of the motor vehicle by means of which s/he has reached 100 negative points.

(4) The imposed sentence - termination of the validity of driver's license shall not be enforced if more than two years has lapsed from the effectiveness of the decision on the misdemeanor.

(5) In the cases referred to in paragraphs (1), (2) and (3) of this Article, the driver's license shall cease to be valid on the day of effectiveness of the decision which imposed the sanction - termination of the validity of driver's license.

(6) The perpetrator who was imposed with termination of the validity of driver's license for a certain category, cannot obtain the right to operate a motor vehicle of the category by means of which the misdemeanor has been committed and wherefore the driver's license has been revoked, within one year from the day of termination of the validity of the driver's license.

## **Prohibition to operate a motor vehicle**

### **Article 21**

(1) Sanction - prohibition to operate a motor vehicle of certain types or categories in duration of 30 days to one year may be imposed for a misdemeanor against the safety of public traffic, whereby a risk of giving rise to damage with severe consequences has been caused i.e. if the act caused harmful consequence.

(2) For the perpetrator who does not possess a driving license, and commits a misdemeanor as referred to in paragraph (1) of this Article, the prohibition to operate a motor vehicle shall include a prohibition to obtain driver's license within a period of 30 days to one year.

(3) The prohibition to operate a motor vehicle shall be recorded in the driver's license not later than 15 days from the effectiveness of the decision and shall commence to lapse from the day of recording in the driver's license.

(4) If the sanction referred to in paragraph (1) and paragraph (3) of this Article has been imposed to a person with foreign driver's license, this sanction shall include a prohibition to operate a motor vehicle on the territory of the Republic of Macedonia.

(5) The misdemeanor body may impose the sanction - prohibition to operate a motor vehicle in duration of up to 30 days.

## **Prohibition to perform a profession, activity or duty**

### **Article 22**

(1) The perpetrator of a misdemeanor may be prohibited from performing certain profession, activity or duty or works in connection with disposition, use, management of and handling property or keeping that property, if s/he abused his/her profession, activity or duty for the purpose of committing a misdemeanor, and if, based on the nature of the misdemeanor and the circumstances under which it has been committed, it could be expected that such an activity shall be abused to commit a misdemeanor again.

(2) The court shall determine the duration of the prohibition referred to in paragraph (1) of this Article, lasting no less than one and no more than five years, counting from the day of the effectiveness of the decision.

(3) The misdemeanor body may impose the sanction referred to in paragraph (1) of this Article in duration of no less than 3 days and no more than 15 days.

## **Expulsion of a foreigner from the country**

### **Article 23**

(1) The court may impose a sanction - expulsion from the country, to a perpetrator who is not a citizen of the Republic of Macedonia, if it determines that the nature of the misdemeanor, the perpetrator's motives and the circumstances under which the misdemeanor has been committed, point to undesirability for further stay of the perpetrator in the country.

(2) The expulsion of a foreigner from the country may last from one to ten years, or forever, and shall be counted from the day of expulsion of the perpetrator from the territory of the Republic of Macedonia.

(3) The expulsion referred to in paragraph (1) of this Article cannot be imposed to a perpetrator who is protected in accordance with a ratified international agreement.

## **Mandatory treatment of alcoholics and drug addicts (persons with addiction diseases)**

### **Article 24**

(1) The court may impose mandatory treatment of alcoholics and drug addicts (persons with addiction diseases), ambulatory or in a specialized institution, to a perpetrator of misdemeanor due to addiction to permanent use of alcoholic drinks, drugs and other psychotropic substances in case of danger that due to the addiction s/he will commit new misdemeanors.

(2) If the perpetrator, without a justified cause does not submit him/herself to a compulsory ambulant in house treatment or if s/he leaves the treatment voluntarily, the court may impose a sanction - mandatory treatment of alcoholics and drug addicts which will be coercively enforced in a specialized institution.

(3) The coerced treatment in a specialized institution may last up to two years at most.

## **General rules for meting out the sanction**

### **Article 25**

(1) The sanction shall be mete out to the perpetrator within the boundaries prescribed by law, taking into account the misdemeanor liability of the perpetrator and the gravity of the misdemeanor.

(2) All circumstances influencing the sanction to be less or more severe (extenuating and hindering circumstances), and especially: the degree of the perpetrator's liability for the misdemeanor, the motives for committing the misdemeanor, the degree of endangering or breach of protected good, the circumstances under which the misdemeanor has been committed, the previous record of the perpetrator, his/her personal situation and behavior after committing the misdemeanor, especially if the damage has been compensated shall be taken into account during meting out of the sanction.

(3) The financial situation of the perpetrator, the amount of his/her salary, his/her other revenues, his/her property and family obligations, and in case of misdemeanors in the field of taxes and customs duties the amount of unpaid expenditure shall be taken into consideration during the meting out of the fine.

(4) The sanctions imposed for previously committed misdemeanor cannot be hindering circumstances if from the day of the effectiveness of the misdemeanor decision until committing the new misdemeanor, more than two years have lapsed.

(5) The economic power and the previously imposed sanctions shall be taken into account during meting out the fine imposed to a legal entity and a sole proprietor.

## **Concurrence of misdemeanors**

### **Article 26**

(1) If the perpetrator, with one or several acts, has committed more than one misdemeanor, but a misdemeanor decision has not been adopted, primarily the sanction for every individual misdemeanor shall be determined, subsequently all determined sanctions will be imposed as a single one.

(2) If a fine is prescribed for several misdemeanors committed concurrently, the court shall impose a single sanction which equals the sum of the separately determined fines, which cannot exceed the maximal fine determined in this Law.

(3) The provisions of paragraphs (1) and (2) of this Article, shall also apply in case when the perpetrator was granted with conditional postponement of the payment of the fine based on Article 17 of this Law.

## **Extended misdemeanor**

### **Article 27**

(1) Against the perpetrator who, using the same permanent relationship, same conditions or other similar circumstances, commits two or more time-related premeditated acts that represent multiple committing of the same misdemeanor, a single sanction within the boundaries of the sanctions prescribed for that misdemeanor shall be imposed.

(2) Against the perpetrator, who, under circumstances as of paragraph (1) of this Article commits two or more time-related acts that represent committing misdemeanors of the same type, a sanction within the boundaries of the sanction prescribed for the most severe misdemeanor shall be imposed.

## **Sanction Acquittal**

### **Article 28**

(1) The court, i.e. the misdemeanor body may acquit the perpetrator from sanction only when it is strictly prescribed by law.

(2) In case when authorized to acquit the perpetrator from sanction, the court i.e. the misdemeanor body, may mitigate the sanction regardless of the limitations prescribed for mitigating the sanction or may mitigate only the sanction - prohibition to operate a motor vehicle or expulsion of a foreigner from the country.

## **Special basis for sanction acquittal**

### **Article 29**

The court i.e. the misdemeanor body may acquit from the sanction the perpetrator of the misdemeanor committed out of negligence, in case when the consequences from the misdemeanor affect the perpetrator so severely that the sanction would not meet the goal of the punishment.

## **Acquittal due to removal of the adverse consequences of the misdemeanor**

### **Article 30**

For a misdemeanor, wherefore a sanction is prescribed, committed under especially extenuating circumstances, if the damaged party agrees, the court i.e. the misdemeanor body may acquit the perpetrator from sanction, who until the completion of the misdemeanor procedure shall return the acquired benefit to the damaged party, compensate the damage or in other way compensate or remove the adverse consequences of the misdemeanor.

## **Mitigation of fine**

### **Article 31**

In case when the misdemeanor is committed under especially extenuating circumstances and the law prescribes minimal fine, the fine may be mitigated for one third of the minimum prescribed fine.

## **Chapter Four**

### **MISDEMEANOR SANCTIONS AGAINST JUVENILES**

#### **Exclusion of misdemeanor sanctions against juveniles**

### **Article 32**

Misdemeanor sanctions cannot be imposed against a juvenile, who in the time of committing the misdemeanor has not reached 14 years of age (child).

#### **Imposing misdemeanor sanctions against juveniles**

### **Article 33**

(1) Against a juvenile, who in the time of committing of the misdemeanor had been over 14 and under 16 years of age (younger juvenile), educational measures only may be imposed.

(2) Against a juvenile, who in the time of committing of the misdemeanor had been over 16 and under 18 years of age (older juvenile), educational measures may be imposed, and a fine as an exception.

## **Chapter five**

### **EDUCATIONAL MEASURES**

#### **Types of educational measures for juvenile perpetrators of misdemeanors**

## Article 34

(1) The following educational measures may be imposed on juvenile perpetrators of misdemeanors:  
- disciplinary measures: reprimand or sending to a juvenile disciplinary center and  
- measures - enhanced supervision by parents, adoptive parent or guardian, in other family or by social service body.

(2) Disciplinary measures shall be imposed on a juvenile when there is no need of permanent educational measures, especially if s/he has committed the misdemeanor out of recklessness or frivolity.

(3) Measures - enhanced supervision shall be imposed on a juvenile, when permanent measures for education, re-education or treatment with appropriate supervision are needed and complete separation from the previous environment is not necessary.

(4) The court may determine one or more special obligations together with the measure - enhanced supervision:

- 1) to personally apologize to the damaged party;
- 2) to repair or remove the damage caused by the misdemeanor;
- 3) to attend school regularly;
- 4) not to be absent from work;
- 5) to be trained for a work which corresponds to his abilities and physical strength;
- 6) to accept a job;
- 7) prohibition to use alcoholic drinks, drugs and other psychotropic substances;
- 8) to restrain him/herself from visiting certain premises i.e. events;
- 9) to attend appropriate healthcare institution or counseling;
- 10) not to contact persons who have harmful effects on his/her personality;
- 11) to be subjected to a psycho-physical treatment;
- 12) to be subjected to, retrained and pre-qualified for the purpose of keeping the job position s/he holds or to create prerequisites for employment; and
- 13) to provide insight and to accept advice regarding the allocation and spending of the salary and other revenues s/he gains.

## Fine

## Article 35

(1) As an exception, an older juvenile may be fined in case if at the time of committing the misdemeanor, regarding his/her mental development, s/he could understand the meaning of the misdemeanor, if there are other terms for misdemeanor liability in accordance with the provisions of this Law and if s/he owns property or has revenues.

(2) The court may fine an older juvenile for severe misdemeanor consequences or higher degree of misdemeanor liability only, provided that there were no grounds for an educational measure to be applied.

(3) If the older juvenile does not pay the imposed fine, it will be coercively enforced in accordance with the Law on Enforcement.

## **Imposing educational measures on adult misdemeanor perpetrators, which they have committed as juveniles**

## Article 36

(1) Educational measure, except the measure - enhanced supervision, may be imposed on an adult perpetrator up to 21 years of age for a misdemeanor s/he committed as a juvenile, if regarding the nature of the misdemeanor, his/her personality and other circumstances that would be appropriate.

(2) If during the procedure the juvenile becomes an adult, the misdemeanor procedure shall be stopped if it would not be appropriate to impose an educational measure or a fine on an older juvenile.

## **Imposing sanctions for a misdemeanor in concurrence**

### **Article 37**

If the juvenile has committed several misdemeanors in concurrence, the court shall adopt a single decision on all misdemeanors and shall impose a single sanction.

## **Chapter six**

### **MISDEMEANOR SANCTIONS AGAINST A LEGAL ENTITY**

#### **Types of misdemeanor sanctions against legal entities**

### **Article 38**

(1) The following sanctions for committed misdemeanors may be imposed against legal entities:

- 1) fine and
- 2) temporary prohibition to perform certain activity.

(2) The fine shall be imposed in amount which cannot be less than 200 Euro in Denar counter-value and no more than 5.000 Euro in Denar counter-value.

(3) Fine in amount of up to double than the maximum prescribed for this sanction may be imposed for misdemeanors committed out of self-interest or misdemeanors causing larger property damage, or proportionally to the amount of the damage caused or benefit acquired, but not exceeding twenty times the fine referred to in paragraph (2) of this Article.

(4) The law which prescribes the misdemeanor may also prescribe a fine in amount higher than the amounts determined in paragraphs (2) and (3) of this Article.

(5) The law that prescribes misdemeanors wherefore the fine is imposed on the spot, may prescribe an amount which cannot be higher than 1.000 Euro in Denar counter-value.

(6) The decision imposing a measure – temporary prohibition to perform certain activity to a legal entity, shall include the activity which is prohibited.

(7) The sanction - temporary prohibition to perform certain activity by a legal entity may be imposed if there is danger that by performing such an activity the legal entity could commit another misdemeanor, dangerous to the life and health of people, or a misdemeanor which could cause property damage to other legal entity or citizens, or if the legal entity has been sanctioned for the same or similar misdemeanor within the last two years.

(8) The law that prescribes the misdemeanor may prescribe a compulsory imposition of a sanction - prohibition to perform certain activity by a legal entity.

(9) The court shall determine the duration of the sanction referred to in paragraph (6) of this Article, which cannot be less than six months and no more than five years, counting from the day of the effectiveness of the decision.

(10) The misdemeanor body may impose the sanction referred to in paragraph (6) of this Article in duration of not less than 3 and no more than 30 days.

(11) The sanction - temporary prohibition to perform an activity cannot be imposed against a legal entity founded by law or against a political party.

## **Meting out the sanction**

### **Article 39**

(1) The Balance Sheet and the Income Statement of the legal entity, the level of the caused damage or the obtained gain, the type of activity and the nature and gravity of the committed misdemeanor, shall be taken into account during meting out the sanction.

(2) If the court i.e. misdemeanor body determines a fine for two or more misdemeanors in concurrence, the single fine shall be a sum of the individually determined fines and it cannot exceed the legal maximum of the fine prescribed for legal entity.

## **Enforcement of the fine**

### **Article 40**

(1) If the convicted legal entity does not pay the fine within the determined time frame, which cannot be less than eight days and no more than 30 days, a coercive enforcement shall be conducted.

(2) If the fine cannot be enforced from the property of the legal entity because the legal entity does not own such property or ceased to exist prior to the enforcement of the sanction, the sanction shall be enforced from the property of the founder or founders of the legal entity proportionally to the shares, or from the property of the stockholders or the shareholders in a trade company, proportionally to their shares.

(3) The fine imposed to foreign legal entities shall be enforced from the property confiscated in the Republic of Macedonia or by applying an international agreement, from the property abroad.

## **Chapter seven**

### **SPECIAL MISDEMEANOR MEASURES**

#### **Confiscation of property and property gains and seizure of objects**

### **Article 41**

(1) The provisions on confiscation of property and property benefit and seizure of objects as of Articles 97 to 100-a of the Criminal Code shall be applied to confiscated property and property benefit obtained as a result of a misdemeanor committed by a natural person.

(2) The provisions on the types of sentences for legal entities as of Article 96-a of the Criminal Code shall apply to confiscated property and property benefit obtained as a result of a misdemeanor committed by a legal entity.

(3) The provision on the conditions for seizure of objects as of Article 100-a of the Criminal Code shall apply to the seizure of objects.

(4) Out of the special misdemeanor measures, the misdemeanor body may use only the measure - seizure of objects.

(5) If the misdemeanor body finds that the measures - confiscation of property and property benefit should be imposed for certain misdemeanor, it shall submit a motion for initiating misdemeanor procedure in court.

## **Chapter eight**

### **TIME-BARRING**

#### **Time-barring in regard to initiating and conducting a misdemeanor procedure**

##### **Article 42**

(1) The misdemeanor's procedure cannot be initiated nor conducted if three years lapse from the day when the misdemeanor has been committed.

(2) The time-barring term of the misdemeanor prosecution shall start from the day when the misdemeanor was committed.

(3) The time barring term shall not run for the time when according to the law, the prosecution cannot commence and cannot continue.

(4) The time-barring term shall cease with every procedural act taken for the purpose of prosecution of the perpetrator of the misdemeanor.

(5) The time-barring term shall also cease when the perpetrator of the misdemeanor, while term of time-barring is running, commits equally serious or more serious misdemeanor.

(6) The time-barring term shall start to run again after every cessation.

(7) The misdemeanor prosecution becomes by all means time-barred when, double the time set forth in a law stipulated for barring of the prosecution, has lapsed.

(8) The law which sets forth the misdemeanor may prescribe longer time-barring terms for certain misdemeanors than the ones referred to in paragraph (1) of this Article, but not longer than five years.

#### **Time-barring in regard to enforcing misdemeanor sanctions**

##### **Article 43**

(1) The imposed misdemeanor sanction cannot be enforced if one year has lapsed from the day of effectiveness of the misdemeanor decision.

(2) The time-barring term for enforcing the misdemeanor sanction shall start running as of the day of effectiveness of the misdemeanor decision.

(3) The time-barring term does not run in the time when the enforcement cannot be performed according to law.

(4) The time-barring term shall cease with any act undertaken by the competent body for the purpose of enforcing the misdemeanor sanction.

(5) The time-barring term starts running again after any cessation.

(6) The misdemeanor sanction becomes by all means time-barred when, double the time set forth in a law stipulated for barring of the enforcement, has lapsed.

(7) The law which sets forth the misdemeanor may prescribe terms of time-barring for enforcement longer than the terms referred to in paragraph (1) of this Article, but not longer than two years.

(8) The time-barring term for the cases referred to in Articles 16 and 17 of this Law shall start running upon the expiry of the deadline for the last installment i.e. the deadline for postponement.

## **Chapter nine**

### **MEANING OF THE TERMS IN THIS LAW**

#### **Article 44**

(1) The term misdemeanor shall also include the acts which are envisaged in certain laws as economic offense.

(2) The term natural person shall also include the responsible person in the legal entity, sole proprietor, official, military person and person performing individual activity.

(3) The term legal entity shall not include the Republic of Macedonia, the state bodies or the bodies of the units of the local self-government.

(4) A responsible person in the legal entity is the person within the legal entity, who regarding his/her position or special authorization is entitled to perform certain activities regarding the enforcement of the legal regulations or regulations enacted based on a law or general act of the legal entity in the management, use and disposition of property, managing the production or other business process or the supervision thereof.

(5) An official shall refer to:

- a) elected or appointed representative in the Assembly of the Republic of Macedonia, in the Government, state administration bodies, courts and other bodies and organizations performing certain professional, administrative or other activities within the scope of the rights and duties of the Republic, in the local self-government as well as persons permanently or temporarily performing official duty in such bodies and organizations;
- b) authorized person in the legal entity with public authorizations, provided by law or other regulation adopted on the basis of a law, in case when the duty is performed within the framework of such authorizations;
- c) person performing official duties based on an authorization provided by law or other regulations adopted on the basis of a law;
- d) military person, in case when the perpetrator of a misdemeanors is set to be an official; and
- e) civil servant performing professional, administrative, normative and legal activities and activities of enforcement, supervision and management, in accordance with the Constitution and law.

(6) The term military person shall refer to: military officers - officers and non-commissioned officers, soldiers who are serving the military term, cadets of the Military Academy, persons attending trainings for officers and non-commissioned officers, army reservists of the Army of the Republic of Macedonia while summoned to exercise rights and duties in the field of defense in regard to carrying out of the military obligation and civilians in service of the Army of the Republic of Macedonia.

(7) Person performing individual activity shall be the person performing activity on the basis of prescribed licenses or approvals.

(8) The term fine shall refer to the Denar counter-value of the Euro amount in the time of imposing the fine, calculated without decimals.

(9) The term minor misdemeanor shall refer to a misdemeanor wherefore the fine does not exceed 500 Euro in Denar counter-value.

(10) The term damaged party shall refer to a person whose right has been violated or endangered with a misdemeanor.

## **Chapter Ten**

### **RECORD OF MISDEMEANOR SANCTIONS**

#### **Keeping records of misdemeanor sanctions**

##### **Article 45**

(1) The records of misdemeanor sanctions shall be kept only for the imposed sanctions consisting of prohibitions, such as: prohibition to operate a motor vehicle and prohibition to perform a profession, activity or duty, expulsion of a foreigner from the country and temporary prohibition to perform certain activity.

(2) The records of misdemeanor sanctions shall be kept by the Court of First Instance according to place of birth of the perpetrator i.e. the headquarters of the legal entity.

(3) For the persons born abroad or the ones with unknown place of birth, as well as for the foreign legal entities, the penalty records shall be kept by the court determined by law.

(4) The data from the records of misdemeanor sanctions shall be provided by the court only upon elaborated request by other state bodies, legal entities and natural persons having legal interest if the prohibition measures are still in force.

(5) After elapsing of the time being imposed for, the sanctions shall be obliterated from the misdemeanor sanctions records.

## **Part Two**

### **SETTLEMENT AND MEDIATION PROCEDURE**

#### **Chapter eleven**

##### **Purpose of the settlement and mediation procedure**

## **Article 46**

(1) The purpose of the settlement and mediation procedure is reaching consent between the perpetrators of the misdemeanors and the relevant body, for removal of the harmful effects of the committed misdemeanor and prevention of recommitting misdemeanors and avoiding misdemeanor procedure in front of the competent court i.e. misdemeanor body.

(2) The competent state bodies authorized to initiate a misdemeanor procedure are obligated to propose a procedure for settlement to the perpetrator of the misdemeanor before they file a motion for a misdemeanor procedure.

(3) The court, i.e. misdemeanor body shall mind ex-officio if a procedure for settlement has been initiated, and if the conditions stipulated in paragraph (1) of this Article are fulfilled, the court may return the motion to the body or may individually perform the procedure for settlement.

## **Actions within the settlement procedure**

### **Article 47**

(1) Should the body competent for initiation of a misdemeanor procedure find that a misdemeanor occurred, it shall prepare minutes containing the significant elements of the act whereof the legal qualification of the misdemeanor derives, the time, place and manner of committing the misdemeanor, description of the act and persons found on the spot. The minutes shall be undersigned by the authorized official and the perpetrator.

(2) If, during the procedure, a payment order had been issued to the perpetrator, it shall be noted in the minutes.

## **On the spot procedure**

### **Article 48**

(1) When the official determines that a misdemeanor has been committed, s/he shall serve the perpetrator of the misdemeanor an invitation for payment of a fine, due to be paid within eight days from the serving.

(2) If the perpetrator fails to voluntarily pay the fine referred to in paragraph (1) of this Article, the official will file a motion for initiation of a misdemeanor procedure before the competent court i.e. misdemeanor body.

## **Payment order**

### **Article 49**

(1) If the perpetrator confesses the act being accused for, or if the authorized official personally determines the misdemeanor or by using appropriate technical means and devices, the official shall immediately issue a payment order.

(2) The payment order for a misdemeanor shall contain: personal name and address and the unique id number of the citizen, and in case of foreigners number of traveling document and country, data on the employment of the perpetrator, for the legal entity name and headquarters and tax number, place and time of committing the misdemeanor, legal qualification of the misdemeanor, amount of the fine, the account number for payment and a legal instruction, but it can also contain other data in accordance with the regulations.

(3) It shall be considered that, by signing that s/he has received the payment order, the misdemeanor perpetrator has agreed to pay the fine.

(4) The perpetrator shall be obligated to pay the fine specified in this Article within eight days after receiving the payment order, on the account specified in the payment order. The perpetrator, who shall pay the fine within the specified time period, shall pay only half of the amount imposed as a fine. The instructions regarding this right shall be a part of the legal instruction of the payment order.

(5) For the procedure ending with issuance of a payment order, no costs for the procedure shall be payable.

(6) The perpetrator who could leave the country to stay abroad and could thus avoid the payment of the fine shall be obligated to pay the fine immediately. A receipt shall be issued for the paid fine.

(7) If the perpetrator fails to pay the fine within the time-frame specified in paragraph (4) of this Article, the official shall file a motion for initiation of a misdemeanor procedure before the competent court.

(8) The body competent to initiate a misdemeanor procedure in the case referred to in paragraph (1) of this Article may temporarily seize the traveling document or drivers license until a proof of payment of the fine is submitted, but not longer than 30 days.

## **Negative points**

### **Article 50**

(1) Regarding traffic and other misdemeanors where the law foresees an authorization of the competent body to register the negative points determined by law in case of committing a misdemeanor, the competent body shall primarily be authorized to propose to the perpetrator of the misdemeanor to pay the determined fine or to have the negative points registered in an appropriate document specified by law.

(2) If the perpetrator fails to pay the fine determined for the misdemeanor, the negative points shall be registered in the documents specified by law.

(3) The competent body shall invite the perpetrator of the misdemeanor to bring the documents for registration of negative points within 30 days, at the address indicated in the document, and should the perpetrator fail to bring the document within the time-frame, a motion for initiation of a misdemeanor procedure shall be filed.

(4) A fine increased by at least one half of the fine prescribed in a certain amount for that particular misdemeanor, may be specified in the misdemeanor procedure, up to three times the amount of the originally prescribed sanction at most, yet not exceeding the general maximum of fines prescribed within this Law.

## **Mediation procedure**

### **Article 51**

(1) For certain misdemeanors, when specified by law, the body competent to initiate the procedure shall propose to the perpetrator a procedure for mediation and agreement, whereby the perpetrator of the misdemeanor should either pay the fine, other dues, or remove the consequences of the misdemeanor. The official shall draft minutes which shall stipulate the agreement of both parties and shall be signed also by the perpetrator of the misdemeanor.

- (2) The official shall submit the minutes to the Mediation Commission within three days.
- (3) The mediation procedure is urgent.
- (4) The mediation procedure shall be conducted by a special Mediation Commission within the framework of the competent body, on the basis of minutes and list of expenditures.
- (5) If the mediation procedure succeeds within eight days, an agreement with the perpetrator of the misdemeanor shall be concluded, whereby, among other elements of the agreement the fine may be reduced by one half. If the mediation procedure fails, the competent body shall file a motion for initiation of a misdemeanor procedure, where the perpetrator of the misdemeanor shall state the costs of the mediation procedure.

## **Mediation procedure involving juvenile misdemeanor perpetrators**

### **Article 52**

- (1) If the misdemeanor perpetrator is a juvenile, the body competent to initiate the procedure shall assess all circumstances having influenced the committing of the misdemeanor, and may decide not to initiate the procedure.
- (2) The competent body may verbally admonish the juvenile in the presence of a parent i.e. guardian and inform the Social Service Center thereof.
- (3) The body competent for initiation of a procedure may come to an agreement with the family of the juvenile to have the consequences of the misdemeanor removed within a specified time frame which cannot exceed 30 days, and failing that a misdemeanor procedure shall be initiated.
- (4) The misdemeanor procedure shall not be initiated if the parents i.e. guardians of the juvenile agree to pay the fine.
- (5) Regarding the mediation procedure, minutes shall be drafted and submitted to the Social Service Center.

## **Part Three**

### **MISDEMEANOR PROCEDURE**

#### **Chapter Twelve**

#### **BASIC PROVISIONS**

#### **Misdemeanor competence**

### **Article 53**

- (1) The misdemeanor procedure may be conducted and a misdemeanor sanction may be imposed only by a competent court.
- (2) For certain misdemeanor types stipulated by law, a misdemeanor procedure may be conducted, and a misdemeanor sanction may be imposed by a state administration body or an organization or other body performing public authorizations of supervision over the implementation of laws prescribing misdemeanors.

(3) Court protection shall be guaranteed against the final misdemeanor decision adopted by the bodies referred to in paragraph (2) of this Article.

(4) All state bodies and the holders of public authorizations shall be obligated to provide assistance and data necessary to determine the facts with respect to the procedure and enforcement of sanction, free of charge, to the courts and bodies referred to in paragraph (2) of this Article.

## **Competence of a misdemeanor body**

### **Article 54**

(1) The misdemeanor body shall conduct the misdemeanor procedure when a law prescribes that this body shall have exclusive competence to act.

(2) As an exception to paragraph (1) of this Article, the misdemeanor body shall be competent to act with respect to all misdemeanors:

- wherefore a sanction - fine in a specifically determined amount, has been prescribed
- wherefore a sanction to a natural person - fine amounting to the Denar counter-value of 500 Euro has been prescribed;
- wherefore a sanction to a legal entity - fine amounting to the Denar counter-value of 1.000 Euro has been prescribed; and
- wherefore imposing of a fine on the spot has been prescribed.

## **Conflict of competences**

### **Article 55**

Any conflict of competences between the court and misdemeanor body shall be decided by the court competent to decide on administrative disputes.

## **Immunity**

### **Article 56**

A misdemeanor procedure shall not be conducted against a person enjoying diplomatic immunity.

## **Decision**

### **Article 57**

Regarding a misdemeanor and imposition of a misdemeanor sanction, the court i.e. the misdemeanor body shall adopt a decision against which the legal instruments specified in this Law shall be allowed

## **Procedure costs**

### **Article 58**

Procedure costs shall be expenses occurring in the misdemeanor procedure or as a result of it, as well as expenses occurring in regard to providing necessary evidence and keeping confiscated and seized objects prior to the initiation of the procedure.

## **Chapter Thirteen**

# MISDEMEANOR PROCEDURE IN FRONT OF A MISDEMEANOR BODY

## **Authorization to conduct a procedure**

### **Article 59**

(1) The procedure in front of the misdemeanor body shall be conducted by a Commission deciding on misdemeanors, set forth by law or other regulation.

(2) The members of the Commission stipulated in paragraph (1) of this Article shall be authorized officials with an appropriate level of professional education and necessary work experience, where at least one of the members shall be a graduated lawyer having passed the judicial exam.

## **Initiation of a misdemeanor procedure**

### **Article 60**

(1) The misdemeanor body shall initiate a misdemeanor procedure ex-officio, upon a motion by an authorized official or upon a motion by the authorized body referred to in Article 80 of this Law and the damaged party (hereinafter: movant).

(2) The motion for initiation of the misdemeanor procedure shall contain the data referred to in Article 81 of this Law.

(3) The motion shall be filed to the authorized misdemeanor body. If the motion had been filed to another body, it shall immediately cede the motion to the misdemeanor body and shall inform the movant thereof.

## **Decision on the motion for conducting a misdemeanor procedure**

### **Article 61**

(1) After determining the conditions for ex-officio initiation of a misdemeanor procedure i.e. after the receipt of the motion stipulated in Article 60 of this Law, the misdemeanor body shall additionally acquire notifications and evidence on the misdemeanor.

(2) If the misdemeanor body determines that legal conditions for initiating a misdemeanor procedure exist, it shall be obligated to conduct the procedure and adopt a decision on the misdemeanor.

(3) If the procedure is not within the competence of the misdemeanor body, the misdemeanor body shall be obligated to file a motion for initiating a misdemeanor procedure to the competent court.

(4) The misdemeanor body shall not adopt a decision on the misdemeanor, i.e. shall not file a motion for initiating a misdemeanor procedure to the competent court, if it determines that the conditions referred to in Article 84, paragraph (2) of this Law, have been satisfied.

(5) The decisions referred to in paragraph (4) of this Article as well as the reasons shall be noted in the record.

(6) The misdemeanor body shall be obligated, within 30 days, to inform the movant in writing of the decision not to adopt a decision on the misdemeanor i.e. not to file a motion to the competent court for initiating a misdemeanor procedure, as well as the reasons thereof.

## **Urgent procedure**

### **Article 62**

(1) The misdemeanors shall be decided upon in an urgent procedure, unless otherwise determined by law.

(2) The urgent procedure shall not be allowed:

- if the misdemeanor involved a bodily injury;
- if for the misdemeanor, in addition to a fine, a sanction - prohibition to operate a motor vehicle, prohibition to perform a profession, activity or duty or temporary prohibition to perform a certain activity is also prescribed;
- if the misdemeanor requires a decision on a property claim; and
- in other cases specified by law.

## **Procedure in front of a misdemeanor body**

### **Article 63**

(1) The misdemeanor body shall *ex-officio*, without delay acquire the evidence and determine the factual situation necessary in order to make a decision on the misdemeanor.

(2) The misdemeanor body shall, prior to adoption of the misdemeanor decision, notify the perpetrator and instruct him/her that s/he may give in writing his/her opinion about the facts and evidence within 3 days.

## **Contents of the decision**

### **Article 64**

(1) The misdemeanor decision must have an introduction, disposition and an explanation.

(2) The introduction of the misdemeanor decision shall contain the name of the misdemeanor body having adopted the decision, name and surname of the members of the Commission referred to in Article 59 of this Law, name and surname of the perpetrator and the attorney, name and surname of the responsible person within the legal entity, the firm i.e. name and headquarters of the liable legal entity and the misdemeanor being subject to the procedure.

(3) The disposition of the misdemeanor decision must contain personal data on the perpetrator, on the responsible person within the legal entity, data on the liable legal entity, factual description of the misdemeanor, the fact that the perpetrator committed the misdemeanor, the sanction being imposed or the fact that the procedure is stopped, as well as a warning that the unpaid fine shall be collected coercively.

(4) In the explanation of the misdemeanor decision, the misdemeanor body shall indicate the evidence and circumstances whereon the decision finds its grounds.

(5) The misdemeanor procedure must contain a lesson regarding the right to a court protection.

## **Admonition**

### **Article 65**

(1) The misdemeanor body may, instead of imposing a fine to the perpetrator of a minor misdemeanor, issue an admonition on the basis of Article 19 of this Law.

(2) The misdemeanor body may keep record on the issued admonitions.

## **Appropriate application of the law**

### **Article 66**

The misdemeanor body shall, when conducting the misdemeanor procedure, appropriately apply the provisions of the Law on General Administrative Procedure, unless otherwise regulated with this Law or the law prescribing the misdemeanor.

## **Chapter fourteen**

### **COURT PROTECTION**

#### **Right to initiate an administrative dispute**

##### **Article 67**

(1) Against the misdemeanor decision having been adopted by the misdemeanor body, a complaint may be lodged for initiating an administrative dispute. The complaint may be lodged by the person (natural or legal entity) having the sanction imposed to, its legal representative i.e. attorney, the damaged party and its representative as well as the owner of the objects seized in the misdemeanor procedure.

(2) The complaint referred to in paragraph (1) of this Article shall postpone the enforcement of the decision on payment of the fine.

(3) Abolished [2](#)

(4) The court competent to decide on the administrative dispute shall conduct the court protection procedure in accordance with the Law on Administrative Disputes.

#### **Time-frame for lodging a complaint and competence**

##### **Article 68**

(1) The complaint referred to in article 67 of this Law shall be lodged within a time-frame of eight days from the day of service of the misdemeanor decision.

(2) The complaint shall be decided by the court competent to decide on administrative disputes.

#### **Reasons for lodging a complaint**

##### **Article 69**

The decision of the misdemeanor body may be contested by a complaint:  
- if the decision has caused violation of a substantive provision of a law prescribing the misdemeanor;  
- if the provisions on the procedure have been violated, when it has not been decided by a competent body or if the decision does not contain all elements prescribed;

- due to wrongfully and incompletely determined factual situation, whereby the complaint may contain new facts and propose new evidence only if the plaintiff renders probable that without personal fault, s/he was not able to propose such facts and evidence during the procedure.
- due to the amount of the imposed fine, if such circumstances have arisen that will enable the application of Articles 28 and 31 of this Law; and
- due to the imposed sanctions, seizure of objects and the costs of the procedure.

## **Chapter fifteen**

### COURT PROCEDURE

#### GENERAL PROVISIONS

##### **Actual competence**

##### **Article 70**

The misdemeanor procedure in court shall be in first instance conducted by an individual judge in the basic court, and the procedure upon legal remedies shall be conducted by a council of three judges.

## **Chapter sixteen**

### DEFENDANT AND HIS/HER RIGHT TO DEFENSE

#### **Defendant**

##### **Article 71**

- (1) A defendant shall be a natural person or a legal entity being subject to a misdemeanor procedure.
- (2) If a legal entity and a responsible person in the legal entity have been accused with a misdemeanor, a single procedure shall be conducted.

#### **Representing a legal entity**

##### **Article 72**

- (1) On behalf of the accused legal entity its representative shall participate in the misdemeanor procedure, being authorized to undertake all actions that could be undertaken by the defendant in accordance with this Law.
- (2) A representative of the accused legal entity shall be a person authorized to represent the legal entity on the basis of a law other regulation of a competent state body, statute or other general act of the legal entity.
- (3) In case when the legal entity has been established by a single founder, this person shall be considered as a responsible person and a representative of the legal entity.
- (4) The accused legal entity's competent body can, as a representative, determine another person employed within that legal entity.

(5) The representative of the accused legal entity referred to in paragraph (4) of this Article, must have a written authorization from the competent body determining him/her as a representative.

(6) One person only may be representative of the accused legal entity.

## **Representing a foreign legal entity**

### **Article 73**

The foreign legal entity shall be represented by the head of the subsidiary or the branch office, or other person authorized by the foreign legal entity.

## **Limitations to representing**

### **Article 74**

(1) The accused legal entity cannot be represented by the responsible person within the legal entity being subject to a misdemeanor procedure for the same misdemeanor, except for the person referred to in Article 72, paragraph (3) of this Law.

(2) A representative of the legal entity cannot be a person which is a witness in the same matter.

(3) In the cases as of paragraphs (1) and (2) of this Article, the court shall be obligated to notify the legal entity for the purposes of appointing a different representative.

(4) With regard to a foreign legal entity, the notification referred to in paragraph (3) of this Article shall be submitted to the subsidiary, i.e. the branch office of the foreign legal entity.

## **Chapter Seventeen**

### **THE DAMAGED PARTY AND HIS/HER REPRESENTING**

#### **Damaged party and his/her representing**

### **Article 75**

(1) A damaged party shall, in terms of this Law, be a person whose right has been violated or threatened with the misdemeanor.

(2) The damaged party shall personally or by his/her legal representative or attorney in fact, have the right to:

- 1) file a motion for initiating a misdemeanor procedure;
- 2) submit evidence, submit proposals and state property claims for damage compensation or return of objects;
- 3) lodge an appeal against the decision having been adopted in regard to his/her motion for initiating a misdemeanor procedure or in regard to the decision on the costs of the procedure; and
- 4) to waive the motion for conducting the misdemeanor procedure until adopting the misdemeanor decision, and in such case s/he shall have no right to re-file a motion for initiating a misdemeanor procedure.

(3) The court shall accept the motion from the damaged party to initiate a misdemeanor procedure provided that, it is accompanied by a written motion to the competent body, along with evidence that s/he has reported the misdemeanor and has requested the competent body to act upon the request

and if, within 30 days from filing such a motion, s/he has not received any response or has received a negative response from the competent body.

(4) The court shall dismiss the motion of the damaged party if the conditions referred to in paragraph (3) of this Article do not exist.

(5) If in a procedure initiated by the damaged party, the court determines that a misdemeanor has been committed and that the competent body has failed, without justification, to file a motion for initiating a misdemeanor procedure, it shall inform the competent body where the official has been employed as well as the Ombudsman, thereof.

## **Chapter eighteen**

### **ATTORNEY**

#### **Revocation of the attorney's letter of attorney**

##### **Article 76**

The defendant, who shall properly receive summons for a hearing, may revoke his/her attorney's letter of attorney, no later than three days prior to the start of the hearing.

#### **Cancellation of the letter of attorney by the attorney**

##### **Article 77**

(1) The attorney may cancel the letter of attorney, no later than three days prior to the start of the hearing informing the court thereof, or alternatively the attorney shall be obligated to ensure the presence of another attorney at the hearing.

(2) If the attorney fails to inform the court of the cancellation of the letter of attorney within the time-frame referred to in paragraph (1) of this Article, the court may impose a fine in the amount of up to 50.000 Denars.

## **Chapter nineteen**

### **SERVICE OF PROCESS**

#### **Service of process to natural persons**

##### **Article 78**

(1) When the service of process is performed by a court courier, the writ shall be handed directly to the person to whom it is addressed. If the courier fails to find such a person, s/he shall leave a notification with an adult person at the moment present in the house or to a different person who consents to receive it, stipulating that the writ should be obtained in the court. If the person does not come to obtain the writ in the court, it shall be considered that the writ has been properly served.

(2) When service of process is performed by mail, the postman shall leave a notification in the home of the defendant that s/he should obtain the writ from the post-office, and failing to do so the it shall be considered that the writ has been properly served.

(3) The service of process may be performed by engaging other agency for service of process.

## **Service of process to legal entities**

### **Article 79**

(1) Decisions and other writs shall be served to the state body by handing them to the archives of the body.

(2) The service of process to legal entities shall be performed by handing the writ to the person authorized to receive writs or to the employee who at the moment was present in the business premises.

(3) When serving decisions having a time-frame commencing as of the day of service, the day of service shall mean the day when the writ has been handed in the archives of the body or to the person referred to in paragraph (2) of this Article.

(4) The summonses and other writs as well as the decision shall be served at the registered address of the headquarters of the legal entity, i.e. at the address of the representative of the legal entity. If during the procedure the legal entity has changed its headquarters, it shall be obligated to inform the court within three days at latest of the new headquarters and address, otherwise any service performed at the previous address shall be considered properly performed.

(5) The decision imposing a sanction on a legal entity shall be served, in person, to the representative of the legal entity. If the service in person fails, a proper service shall be considered the service performed by registered mail at the address of the legal entity where its headquarters is registered or at the address of the representative of the legal entity.

## **Chapter twenty**

### **MOTION FOR A MISDEMEANOR PROCEDURE**

#### **Movant**

### **Article 80**

(1) The misdemeanor procedure shall be initiated upon a request from the authorized body and the damaged party (hereinafter: movant).

(2) Authorized bodies, in terms of paragraph (1) of this Article shall be the state administration bodies, the public prosecutor, the units of the local self government and other bodies and organizations performing public authorizations and being competent for direct enforcement or supervision over the enforcement of the laws stipulating misdemeanors.

(3) The authorized bodies referred to in paragraph (2) of this Article shall be obligated to file a motion for initiating a misdemeanor procedure, every time there are grounds to suspect that a misdemeanor has been committed.

(4) The motion for initiating a misdemeanor procedure shall be filed in writing, in sufficient number of copies for the court and the persons having a misdemeanor procedure initiated against them.

#### **Content of the motion**

## **Article 81**

(1) The motion for initiating a misdemeanor procedure shall contain:

1. basic data on the identity of the perpetrator (name and surname, nick name, personal identification number of the citizen (hereinafter: PIN), place and date of birth, place of residence, street and number, address of the temporary place of residence, occupation, citizenship, if the natural person is a foreigner than the number of the travel document instead of PIN) and for a legal entity: name and headquarters of the accused legal entity, gyro-account, tax number and deposit bank, and for the responsible person within the legal entity, the function this person performs within the legal entity as well;
2. factual description of the misdemeanor showing the legal characteristics of the misdemeanor, time and place of committing the misdemeanor and other circumstances necessary to closely define the misdemeanor;
3. legal qualification of the misdemeanor that should be applied;
4. evidence that should be exhibited; and
5. signature of the movant.

(2) When the motion for initiation of a misdemeanor procedure is filed by the damaged party, the motion need not contain a legal qualification of the misdemeanor.

(3) Together with motion for initiation of a misdemeanor procedure, the damaged party can also file a claim for damage compensation.

(4) The evidence shall be submitted together with the motion.

(5) If it is not possible to determine the identity of the perpetrator of the misdemeanor, the motion instead of personal data shall contain the description of the person and a photograph i.e. recording and all other data relevant for the determination of the identity of the person being directed for detention in a shelter center.

## **Misdemeanor whereof the court shall come to knowledge during the procedure**

### **Article 82**

If the court during the procedure comes to knowledge of a misdemeanor whereof a motion has not been filed by the authorized body, it shall inform the authority thereof.

## **Completion of the motion**

### **Article 83**

(1) If the motion for initiation of the misdemeanor procedure does not contain all of the data referred to in Article 80 of this Law, the movant shall be asked to complete the motion within a time-frame not longer than fifteen days. If the movant has failed to remove the deficiencies within the specified time-frame, s/he shall be considered to have waived the motion and such a motion shall be dismissed.

## **Dismissal of the request**

### **Article 84**

(1) If the court determines that conditions for initiating a misdemeanor procedure do not exist, it shall issue a determination dismissing the motion.

(2) Conditions for initiating a misdemeanor procedure do not exist, in case when:

1. the activity described in the motion is not a misdemeanor;
2. grounds removing the liability for a misdemeanor exist;
3. time-barring has occurred in regard to the initiation of the misdemeanor procedure;
4. the motion was filed by an unauthorized movant, i.e. person;
5. other legal reasons exist wherefore the misdemeanor procedure cannot be initiated;
6. the motion has not been supported by evidence of a committed misdemeanor;
7. the motion does not contain the necessary data referred to in Article 81 of this Law.

(3) The determination referred to in paragraph (1) of this Article shall be served to the movant, and the damaged shall be informed that the property claim can be carried out in a litigation procedure.

(4) Against the determination referred to in paragraph (1) of this Article the movant shall have the right to lodge an appeal within a time-frame of eight days to the court of second instance.

## **Adhering and separating of the procedure**

### **Article 85**

(1) If with one or multiple activities, the defendant commits multiple misdemeanors whereon a decision has not been adopted, and the same court is competent for all decisions, as a rule a sole procedure shall be conducted and a sole misdemeanor decision shall be adopted. Sole procedure, as a rule shall be also conducted against a legal entity and a responsible person, against a defendant, accomplice, abettor and assistant, unless there are legal conditions for the procedure to be conducted only against one of them.

(2) Until adopting a misdemeanor decision, the court due to justified reasons or purposefulness may decide to separate the procedure for certain misdemeanors or against certain defendants, accomplices, abettors or assistants from the sole procedure, and have this procedure concluded separately.

(3) For the adhering and separating the procedure the court shall adopt a determination against which an appeal shall not be allowed.

## **Initiating a misdemeanor procedure**

### **Article 86**

(1) If the court does not adopt a determination to dismiss the motion, the court shall be obligated to schedule a hearing and inform the defendant thereof.

(2) Together with the summons for interrogation the court shall serve to the defendant a proposal for a settlement and mediation procedure in accordance with Article 46 of this Law and a payment order.

## **Deciding on the motion**

### **Article 87**

(1) In the summons for interrogation of the defendant, the court shall instruct the defendant that if s/he pays the fine or if a settlement and mediation procedure is conducted, a decision on terminating the procedure shall be adopted. If the fine has not been fixed, the court shall determine the fine in a minimum amount determined by law increased by one tenth.

(2) The defendant shall be obligated to submit evidence no later than the day of the interrogation showing that the mediation or settlement procedure was successful or that s/he paid the fine, and what had been committed shall be recorded in the minutes.

(3) Against the decision referred to in paragraph (1) of this Article, the party shall not have the right to an appeal.

## **Chapter twenty one**

### **MEASURES FOR ENSURING THE PRESENCE OF THE DEFENDANT AND CONDUCTING THE MISDEMEANOR PROCEDURE**

#### **Types of measures**

##### **Article 88**

Measures which can be undertaken with respect to the defendant in order to ensure his/her presence and conduct the procedure, shall be: summoning, taking into custody, detention, bail and temporary seizing of a foreigner's the travel documents, and detention of a foreigner in a transit center.

#### **Summons**

##### **Article 89**

(1) The presence of the defendant on a hearing in the misdemeanor procedure shall be ensured by a summons. The summons shall be sent by the court conducting the misdemeanor procedure.

(2) With the summons, the defendant shall be notified of the charges against him/her and that s/he is obligated to appear personally or provide the defense in writing. The defendant who is invited to appear personally shall be warned that his/her taking into custody will be ordered if s/he fails to appear in court in accordance with the summons. If the defendant does not need to be heard in order for a just ruling to be made, s/he shall be warned in the summons that the decision on the misdemeanor shall be brought without a hearing, if s/he fails to appear as per the summons.

(3) The summons shall be accompanied by a copy of the motion for initiating a misdemeanor procedure as well as evidence.

(4) Together with the court summons a payment order shall be served, which shall obligate the defendant to pay the fine within eight days and submit proof to the court that the fine has been paid .

(5) The perpetrator shall be instructed that if s/he fails to pay the payment order, the procedure shall continue in the courts.

#### **Taking into custody**

##### **Article 90**

(1) If the properly summoned defendant does not appear in court and does not justify his/her nonappearance, or if it was impossible to properly serve the summons, and it is evident from the circumstances that the defendant eludes, and if his/her presence is necessary for bringing a just decision, taking into custody shall be determined. Taking into custody may be determined only if, in the summons, the defendant has been instructed that s/he is obligated to appear personally.

(2) The taking into custody shall be determined in writing. The order to take into custody shall contain the name and surname of the defendant who needs to be taken into custody, date of birth, defendant's place of residence, the case where custody is determined and the reason for determining the custody. The order must have a stamp and a signature of the judge who ordered the custody.

## **Bail**

### **Article 91**

(1) When the misdemeanor procedure has been initiated against a defendant who does not permanently reside in the Republic of Macedonia and wants to leave the Republic of Macedonia before the completion of the procedure, the court may upon his/her request allow that s/he provides bail as security for the fulfillment of the obligations which may be specified in the misdemeanor decision.

(2) The court may request the defendant, in addition to providing the bail, to specify an attorney in fact who shall on his/her behalf, receive the writs and represent him/her in the procedure if his/her property rights are at stake.

(3) The bail may not be determined prior to the hearing of the defendant.

(4) The bail shall always specify a monetary amount determined according to the severity of the misdemeanor, the caused damage amount, personal or family conditions of the defendant and considering the financial state of the person providing the bail. The bail shall consist of laying down cash, securities, valuables or other movable objects of higher value which may be converted into money or kept.

(5) If the procedure has been stopped with a decision, the given bail shall be returned.

(6) If the perpetrator of the misdemeanor, after the legal effectiveness of the misdemeanor decision, fails to pay the specified fine or compensate the caused damage, acquired property gains and costs of the procedure, the specified fine, determined caused damages, acquired property gains and costs of the procedure shall be deducted from the given bail and the rest shall be returned.

(7) Regarding the payment of the bail and its return, the court shall adopt a separate determination.

## **Detention**

### **Article 92**

(1) If there are ground to suspect that the defendant has committed a misdemeanor, until the adoption of a misdemeanor decision, the court may order detention if it is impossible to determine his/her identity or if s/he does not have a place of residence in the Republic of Macedonia, and there are reasons to suspect that the misdemeanor could be recommitted or that s/he will escape or, if by leaving the country in order to stay abroad, s/he can avoid liability for the misdemeanor.

(2) The defendant being detained shall have the right to be immediately informed of the reasons for the detention in his/her mother tongue or the language which s/he understands, as well as to be instructed that s/he is not obligated to state anything, that s/he has the right to an immediate legal aid by an attorney which the defendant may freely choose and that the competent authority is obligated upon his/her request to inform the defendant's closest relatives, i.e. his/her employer regarding the defendant's detention, and in case when the defendant is a foreign citizen to inform the diplomatic representative office of the country of the defendant, upon his/her request. The defendant has to be given a written determination regarding the reasons for the detention along with a legal instruction immediately and at most within six hours. During the detention, the defendant shall have the right to an appeal against the determination. The appeal shall not suspend the detention

determination. The appeal on the lawfulness of the detention shall be decided by the court of second instance within 48 hours.

(3) The detention can last at most 12 hours from the hour when the defendant had been detained. During this time the defendant should be heard and a misdemeanor decision should be made or the defendant should be released.

(4) Regarding the detention of the defendant, the provision of the Criminal Procedure Code on enforcing the detention shall apply accordingly, unless otherwise stipulated by this Law.

## **Detention of a foreigner in a transit center**

### **Article 93**

(1) If the perpetrator of the misdemeanor is a foreigner whose identity cannot be determined, the court shall immediately order a measure of detention in a transit center.

(2) The detention of a foreigner on basis of a decision may last up to 30 days, and the court may extend it for another 30 days.

(3) Against the decision, the foreigner shall have the right to an appeal to the court second instance within 48 hours from the moment s/he has been detained in the transit center. The appeal shall not delay the enforcing of the decision.

(4) When the court orders detention of a foreigner in a transit center, it shall inform the Ministry of Interior and shall obligate the body to take measures for determining the identity of the foreigner.

(5) The court shall adopt a decision terminating the detention immediately after obtaining the data on the identity.

(6) The placing in the transit center shall be regulated with a separate law.

## **Detention of persons under influence of alcohol or other psychoactive substances**

### **Article 94**

(1) The Ministry of Interior can order the detention of a perpetrator who under influence of alcohol or other psychoactive substances has been caught in the act of committing the misdemeanor, in case when there is a threat that the defendant shall continue committing misdemeanors in the future, and there are no possibilities to immediately transfer him/her to the health care institution. The detention can last 8 hours at most. The costs for the stay shall be covered by the perpetrator of the misdemeanor.

(2) For every detention, the Ministry of Interior shall prepare minutes stipulating the measures that had been undertaken, as well as the medical measures if such measures had been undertaken. A copy of the minutes shall be given to the detained person.

(3) A person under influence of alcohol or other psychoactive substances shall be considered a person who by using technical means or devices, in accordance with law, has been determined as such, or if the appearance, behavior, psychophysical state and other circumstances imply that this person is not capable of controlling his/her actions.

## **Taking into custody of persons caught in the act of committing a misdemeanor**

### **Article 95**

(1) The Ministry of Interior can take a person into custody, caught in the act of committing a misdemeanor even without a court order, if it is impossible to determine the identity of the perpetrator, or if s/he does not have a place of residence, or if by leaving the country in order to stay abroad s/he could avoid liability for the misdemeanor, or if such circumstances exist which render the judgment that the perpetrator could continue committing the misdemeanor reasonable, or that s/he may repeat it.

(2) If in the case referred to in paragraph (1) of this Article, the perpetrator is caught in the act of committing a misdemeanor at a time when the court is closed or if such circumstances exist indicating that s/he will escape or continue committing the misdemeanor or repeat the misdemeanor, an authorized official may detain the defendant. The detention lasts until it is possible to bring the defendant before the competent court, but not more than 12 hours.

(3) The defendant taken into custody must be immediately informed in his/her mother tongue or in a language which s/he understands, of the reasons for the custody, as well as to be instructed that s/he is not obligated to state anything, that s/he has the right to an immediate legal aid by an attorney of his/her own choosing and that upon his/her request the competent authority is obligated to inform his/her closest relatives of the detention.

## **Informing of detention for purposes of taking into custody**

### **Article 96**

(1) The court i.e. the Ministry of Interior which ordered the detention shall be obligated upon a request from the detained person to inform his/her family thereof. Upon a request from the detainee, his/her employer or the diplomatic representative office of the foreign country shall be informed thereof, and if there is need to take measures for protection and care of the children and other members of the family, being taken care of by the detained person, the competent social service center as well.

(2) With regard to the detention of a military person, the military unit or the command unit where the military person belongs shall be informed *e x-officio* .

## **Reckoning of the time in detention**

### **Article 97**

(1) The time during which the suspect or the defendant has been detained before the misdemeanor decision was adopted, shall be reckoned in the fine. Every hour of detention commenced shall be reckoned as the Denar counter-value of 1 Euro.

(2) The defendant who during the criminal procedure was in custody, shall have the time in custody reckoned in the fine rendered for a misdemeanor, if the defendant was not convicted for a crime, and if for the same offense a fine has been rendered in the misdemeanor procedure, whereby a day of detention shall account for at least 5 fines.

## **Chapter twenty two**

## SUBSTANTIATING

### **Confessing a misdemeanor**

#### **Article 98**

If the defendant confesses committing the misdemeanor and the confession is clear and complete, the court does not need to collect further evidence.

### **Hearing of witnesses**

#### **Article 99**

The witness shall be heard by the court where the misdemeanor procedure is being conducted, except if the witness does not live in the area of the court. In this case the hearing shall be done by the court of the area where the witness resides.

## **Chapter Twenty three**

### CESSATION OF THE PROCEDURE AND DISMISSAL OF THE MOTION FOR MISDEMEANOR

#### **Cessation of the procedure**

##### **Article 100**

(1) The court conducting the procedure shall adopt a determination on ceasing the procedure:

- 1) if the place of permanent or temporary place of residence of the defendant cannot be determined or if the defendant is a fugitive or if for any reason is unavailable to the state bodies or if s/he is located abroad for an indefinite period of time;
- 2) if a temporary mental illness or a temporary mental disorder occurred on the defendant's part;
- 3) if for the same offense a criminal procedure has been initiated and until such a procedure is completed; and
- 4) the procedure having been ceased pursuant to paragraph 1 point 3 of this Article shall continue when the criminal procedure has been terminated on some other grounds, while the conditions for conducting a misdemeanor procedure still exist.

(2) Prior to adoption of a determination to cease the misdemeanor procedure, all of the evidence of the misdemeanor and the liability of the defendant, which are possible to obtain, shall be collected.

(3) The ceased procedure shall continue when the reasons thereof shall stop.

(4) The movant shall be informed of the cessation and continuation of the procedure.

#### **Dismissal of the motion for a misdemeanor procedure**

##### **Article 101**

(1) If the defendant dies, pays the fine, and if s/he executes the payment order, the court conducting the misdemeanor procedure shall adopt a determination on dismissing the motion.

(2) An appeal against the determination shall be allowed by the movant.

(3) When the motion has been dismissed with a determination, the costs shall be covered by the Judicial budget of the Republic of Macedonia.

## **Chapter Twenty four**

### **TEMPORARY SEIZURE OF OBJECTS, TEMPORARY MEASURES AND TEMPORARY PROHIBITION**

#### **Procedure for seizure**

##### **Article 102**

(1) The objects which may be seized in accordance with Article 41 of this Law can also be temporarily seized prior to the adoption of the misdemeanor decision.

(2) The temporary seizure of objects shall be determined in a written order by the court conducting the misdemeanor procedure. The transcript from that order must be handed over to the person from whom the objects are seized.

(3) The person whereof objects are temporarily seized shall be issued a receipt with a precise specification and description of the seized objects.

(4) If the object is easily perishable or if the storage of the object requires unreasonable costs, and it cannot be given for storage to a third party at the expense of the person whereof the object has been seized, the court competent for the conduct of the misdemeanor procedure shall order such an object to be sold and the money from the sold objects shall be deposited on the account of the court.

(5) The sale shall be made in accordance with the provisions of the Law on Enforcement of Sanctions.

#### **Temporary seizure by other bodies**

##### **Article 103**

(1) The officials in the state administration bodies or organizations, and other bodies performing public authorizations for supervision over the implementation of the laws, can be authorized by law to temporarily seize the objects referred to in Article 41 of this Law, in case when while performing their official duty they come to know about the misdemeanor, and they shall be obliged to immediately hand in the seized objects to the competent court, i.e. to notify the court on the performed temporary seizure of the objects and to attend to their storage until a misdemeanor procedure is initiated.

(2) The bodies referred to paragraph (1) of this Article shall be obligated to immediately file a motion for initiation of a misdemeanor procedure, and at most within 15 days from the day when the objects have been seized, otherwise they shall be obligated to return the objects to the person whereof they have been seized, with the exception to the objects whose marketing is prohibited.

#### **Temporary return to the owner**

##### **Article 104**

Upon an objection from an interested party or *ex-officio* , the court conducting the misdemeanor procedure can return the temporarily seized objects to the owner even before the adoption of the misdemeanor decision.

## **Seizure of objects after the completion of the misdemeanor procedure**

### **Article 105**

The temporarily seized objects shall be seized with a decision of the court in accordance with these provisions prior to the completion of the misdemeanor procedure, and in accordance with the provisions of the Criminal Procedure Code after the completion of the misdemeanor procedure.

## **Temporary freezing of transactions and blocking bank accounts**

### **Article 106**

With respect to the temporary freezing of transactions and blocking bank accounts, the provision of the Criminal Procedure Code shall apply.

## **Temporary prohibition by other bodies**

### **Article 107**

(1) Authorized officials in the state administration bodies or organizations and other bodies performing public authorizations of supervision over the implementation of laws, may in the events prescribed with a particular law, temporarily prohibit the perpetrator of the misdemeanor from performing the activity wherein the misdemeanor has been committed, if there is a threat of having the misdemeanor repeated or having the consequences of the misdemeanor removed, and they shall be also obligated to immediately file a motion for initiating a misdemeanor procedure, within at most 15 days.

(2) If such a motion had not been filed within the time frame referred to in paragraph (1) of this Article, it shall be considered that the temporary prohibition has ceased to apply.

## **Revoking the temporary prohibition by the court**

### **Article 108**

(1) The court conducting the misdemeanor procedure may, upon an objection from the defendant or *ex officio*, revoke the temporary prohibition to perform certain activity.

(2) The court shall adopt a determination revoking the temporary prohibition, if the perpetrator removes the consequences i.e. pays the costs, but no later than within three months.

## **Chapter Twenty Five**

### **COURSE OF THE PROCEDURE**

#### **Abbreviated procedure**

### **Article 109**

(1) An abbreviated procedure shall be conducted in the cases when:  
1) the motion for initiating a misdemeanor procedure contains all of the facts and evidence on the basis of which the court may decide without the presence of a party;  
2) the motion for initiating the procedure is based on public documents issued by competent state bodies; and  
3) the perpetrator has been caught in the act of committing the misdemeanor by an authorized official;

(2) In the abbreviated procedure the court shall decide without interrogating the defendant if s/he has been properly summoned but does not appear.

## **The defendant and his/her right to defense**

### **Article 110**

If the defendant appears for interrogation for the purpose of verification of the allegations in the motion filed for initiating a misdemeanor procedure, the court may summon and hear witnesses and expert witnesses, having their statements entered in the record.

## **Permanent session of the court**

### **Article 111**

(1) For the purposes of promptness of the procedure the court shall provide continuous work within 24 hours.

(2) A judge on duty and a court assistant during the entire day, non-work day and holidays, shall be determined with the court work schedule.

## **Urgency of the procedure**

### **Article 112**

If the defendant is a foreigner, the court shall decide in an urgent procedure, within the shortest possible time frame, but no longer than three days.

## **Hearing**

### **Article 113**

(1) The court conducting the misdemeanor procedure shall determine a hearing if it is necessary to clarify the factual situation.

(2) On the hearing the defendant, his/her attorney, the witness and if necessary the expert shall be summoned. If the defendant is a legal entity, its representative shall be summoned on the hearing.

(3) The person proposing the procedure and the damaged party shall be informed of the day of the hearing.

## **Hearing in the absence of the defendant**

### **Article 114**

(1) The court conducting the procedure may decide to hold the hearing in the absence of the defendant who has been properly summoned, and the court has determined that his/her presence is not necessary to correctly determine the situation in the case. Under the same conditions, the hearing may be held in the absence of the properly summoned representative of the accused legal entity.

(2) The hearing shall be held if the properly summoned representative of the movant fails to appear, if his/her presence is not necessary to clarify the factual situation.

(3) The hearing shall be held even if the properly summoned attorney of the defendant fails to appear.

## **Course of the hearing**

### **Article 115**

(1) The hearing begins with the announcement of the main content of the motion. The defendant is interrogated afterwards. If a legal entity and a responsible person within the legal entity are accused, the representative of the legal entity shall be heard first and then the responsible person. After interrogating the defendant, a substantiation procedure shall be conducted including hearing of witnesses, expert witnesses and exhibition of other evidence.

(2) The movant, the defendant and his/her attorney and the representative of the legal entity, as well as the damaged party, shall have the right, during the hearing, to propose evidence and make other proposals, and upon an approval from the judge conducting the misdemeanor procedure they may also pose questions to the persons being heard.

(3) On the hearing, the defendant i.e. the representative of the accused legal entity shall always have the last word.

(4) If the judge conducting the misdemeanor procedure finds that the hearing should not be postponed in order to add to the procedure or to clarify certain issues, s/he shall close the hearing and shall adopt a misdemeanor decision, and shall publicly announce the verdict together with a brief explanation of the reasons.

(5) Minutes shall be taken of the work at the hearing including all important details of the whole hearing. The minutes shall be signed by the judge and the minute taker.

## **Acting upon in case when the defendant has committed a misdemeanor during the procedure**

### **Article 116**

(1) If during the performance of the activities in the misdemeanor procedure the defendant has committed a misdemeanor, the court conducting the misdemeanor procedure shall, as a rule, upon a request from the present movant, expand the procedure to also encompass that misdemeanor.

(2) If the movant is not present or is not authorized to file a motion for initiation of a misdemeanor procedure pursuant to paragraph (1) of this Article, or the defendant has committed a crime, the judge shall form minutes thereof and shall convey this information to the competent movant i.e. the public prosecutor. It shall be acted upon in the same manner if somebody else commits a misdemeanor during the performance of the activities of the misdemeanor procedure.

## **Chapter Twenty Six**

# ADOPTING AND PRONOUNCING DECISIONS

## Types of decisions

### Article 117

- (1) The misdemeanor procedure concludes with the adoption of a verdict or a determination.
- (2) The verdict or the misdemeanor determination refers only to the person for whom the motion for initiation of the procedure has been filed, and only to the misdemeanor being subject to the motion.
- (3) The court is not bound to the proposals and the assessment with respect to the legal qualification of the misdemeanor.
- (4) The verdict or the misdemeanor determination is based on the exhibited evidence and facts, determined in the misdemeanor procedure.

## Verdict

### Article 118

- (1) By means of a misdemeanor verdict, the defendant is pronounced guilty and a misdemeanor sanction is imposed on him/her or s/he is being acquitted.
- (2) If the misdemeanor procedure is conducted for multiple misdemeanors, the verdict shall indicate for which misdemeanors the defendant shall be proclaimed guilty and what kind of misdemeanor sanction shall be imposed on him/her, or he/she is released from responsibility.
- (3) The written misdemeanor verdict must have an introduction, disposition and explanation.
- (4) The introduction of the misdemeanor verdict shall contain the name of the court which has adopted the verdict, the name and surname of the judge who adopted the verdict, name and surname of the defendant and the attorney, the firm i.e. the name and headquarters of the accused legal entity and the misdemeanor being subject to the procedure.
- (5) The disposition of the misdemeanor verdict must contain the personal data of the defendant, data of the accused legal entity, the fact that the defendant is liable for the misdemeanor or the sanction being imposed or that the procedure against the defendant shall terminate.
- (6) When the misdemeanor verdict has an explanation, the court shall state the evidence and the circumstances being the grounds whereon the decision has been based.
- (7) The verdict adopted in an abbreviated procedure, as well as the verdict when the misdemeanor is confessed, and when the right to an appeal is waived, shall not have an explanation.
- (8) The court shall not adopt a verdict, if at the hearing the defendant accepts the payment order delivered to him/her by the court, and the court shall adopt a determination terminating the procedure.
- (9) The verdict shall contain a lesson for an appeal.

## Verdict of acquittal

## **Article 119**

- (1) The verdict by means of which the defendant is acquitted shall be adopted in case when:
1. the action committed is not a misdemeanor;
  2. the defendant has not committed the misdemeanor;
  3. circumstances excluding the liability for the misdemeanor exist;
  4. the procedure has been conducted without a motion of an authorized body i.e. the damaged party (Article 80 paragraph (1));
  5. the procedure has been conducted by a court without actual competence;
  6. in the misdemeanor procedure, the defendant has been imposed on a legally-effective sanction for the same misdemeanor, or the misdemeanor procedure has been legally-effective terminated, but not due to non-competence of the court;
  7. in criminal procedure, the defendant has been legally-effective pronounced guilty for an offense which also encompasses the characteristics of the misdemeanor;
  8. the defendant enjoys diplomatic immunity;
  9. time barring for conduct of the misdemeanor procedure occurred;
  10. no evidence that the defendant committed the misdemeanor exists;
  11. the movant has waived the motion before the legal effectiveness of the misdemeanor verdict.

## **Determination to terminate the procedure**

### **Article 120**

- (1) The procedure shall be terminated with a determination, in case when:
- the defendant has died;
  - the legal entity has ceased to exist;
  - the court determined that the misdemeanor has been committed in a state of mental incompetency;
  - during the procedure, a permanent mental illness has occurred on the defendant's part and in other cases determined in this Law.

- (2) The misdemeanor procedure shall also be terminated in other cases determined by law.

## **Verdict pronouncing the defendant guilty**

### **Article 121**

- (1) The misdemeanor verdict whereby the defendant is pronounced guilty shall indicate:
- the misdemeanor i.e. misdemeanors wherefore the defendant has been imposed a sanction, description of the misdemeanor and a legal qualification of the misdemeanor;
  - the sanction being imposed on the defendant i.e. the decision on acquitting from sanction;
  - the sanction for separate misdemeanors and a unique sanction, if the case involves concurrence of misdemeanors;
  - the decision on confiscation of property and property gains and seizure of objects;
  - the decision on meting out the detention;
  - the decision on costs of the procedure; and
  - the decision on property claim.

- (2) The misdemeanor verdict shall specify the time frame in which the fine should be paid, indicate warning that the unpaid fine shall be collected coercively i.e. payment by means of performing certain tasks.

## **Chapter Twenty Seven**

### **COSTS OF THE PROCEDURE**

## **Cost of the procedure**

### **Article 122**

(1) The costs of the procedure are:

1. expenses for witnesses, expert witnesses, translators, interpreters, insights and searches of premises and people as well as storage of seized objects;
2. expenses for taking into custody;
3. costs for official actions and officials;
4. expenses for treatment of the defendant while s/he is detained, and costs for giving child birth;
5. travel costs of the defendant;
6. lump sum;
7. award and necessary expenses of the attorney;
8. necessary expenses of the damaged party, his/her legal representative and attorney in fact.

(2) The lump sum shall be determined within the limits of the amounts determined with a regulation of the Minister of Justice with respect to the duration and complexity of the procedure as well as to the general state of the person who is obligated to pay it.

(3) The costs referred to in paragraph (1) items 1 to 4 of this Article, during the misdemeanor procedure shall be paid in advance from the funds of the court, and later reimbursed to the court by the person who according to Article 123 of this Law, is obligated to pay them.

## **Payment of the costs of the misdemeanor procedure**

### **Article 123**

(1) The costs of the procedure shall be paid by the convicted against whom a misdemeanor sanction has been imposed.

(2) If a misdemeanor procedure has been conducted for multiple misdemeanors, the person against whom a misdemeanor sanction has been imposed shall not bear the costs for those misdemeanors wherefore the procedure has been terminated, if these costs can be separated from the total costs.

(3) If a sanction has been imposed to multiple defendants with a single decision, the share of the costs to be covered by each of them shall be determined, and if this cannot be determined, all of the defendants shall equally bear the costs of the procedure.

(4) The costs of the procedure having been terminated shall be covered by the Court Budget.

(5) The court conducting the misdemeanor procedure may acquit the defendant having a sanction been imposed, from having to cover the costs of the procedure referred to in Article 122 paragraph (1) of this Law, except from the reward and the necessary costs of the attorney, if the payment of these costs jeopardize the financial existence of the defendant or of the people s/he is obligated to supported.

## **Determination on costs**

### **Article 124**

(1) The misdemeanor decision shall determine who shall pay the costs and the amount.

(2) If there is no sufficient data to determine the costs, a separate determination on the costs of the procedure shall be adopted further on.

(3) The motion with the data on the amount of the costs of the procedure which has been terminated may be filed within three months from the day when the legally effective verdict or determination was handed to the person having the right to file such a motion.

## **Special costs**

### **Article 125**

(1) The defendant, damaged party, attorney, legal representative, attorney in fact, representative of the legal entity, witness, expert witness, translator and interpreter, regardless of the outcome of the misdemeanor procedure shall cover the costs of their taking into custody, postponement of an activity in the misdemeanor procedure and other costs they have caused due to a fault of their own, as well as the appropriate amount of the lump sum.

(2) A separate determination shall be adopted with respect to the costs of the procedure referred to in paragraph (1) of this Article.

## **Costs of the procedure upon legal remedies**

### **Article 126**

(1) For the payment of the costs in the procedure upon appeal before the court of second instance, the final decision shall be made by that court in accordance with the provisions of Articles 122 to 125 of this Law.

(2) The lump sum shall not be determined, if with a decision of the court of second instance it has been fully or partially decided in favor of the defendant.

(3) The lump sum shall also be specified in case the appeal is dismissed.

## **Costs of the procedure upon extraordinary legal remedies**

### **Article 127**

With respect to the payment of the costs incurring in the procedure upon the extraordinary legal remedies, the provisions of Articles 122 to 125 of this Law shall apply accordingly.

## **Adopting regulations on costs of the procedure**

### **Article 128**

The Minister of Justice shall adopt a Rulebook on the costs of the misdemeanor procedure.

## **Chapter Twenty Eight**

### **LEGAL REMEDIES**

#### **Types of legal remedies**

### **Article 129**

(1) An appeal to the court of second instance may be filed against the verdict and the determination of the court of first instance.

(2) In a misdemeanor procedure having been concluded with a verdict, extraordinary legal remedies such as: petition for repeating the misdemeanor procedure and petition for protection of lawfulness, can be used.

## **Procedure upon legal remedies**

### **Article 130**

(1) In a procedure upon appeal or upon other legal remedies, the attorney must disclose a letter of attorney, and if the attorney does not disclose a letter of attorney it shall be considered that the appeal is improper.

(2) Every objection with respect to the appropriateness of the service of process can be made by the parties, until the completion of the hearing.

(3) In the procedure upon appeal or in the procedure upon extraordinary legal remedies, the party cannot propose new evidence whereof it knew and could have proposed it in the procedure of first instance.

## **Time frame for legal remedies**

### **Article 131**

(1) The appeal shall be filed within eight days from the day when the decision is received.

(2) The court of second instance shall decide immediately, and at most within 30 days from the day the appeal is received, in a closed session.

(3) When dealing with a foreigner, the court of second instance shall decide immediately and at most within three days.

(4) In case when exhibition of new evidence has been proposed, the court of second instance can abolish the decision of first instance and return the case to the court of first instance, except when the evidence has been proposed together with the appeal.

(5) The court of second instance, when deciding while repeating the procedure, shall not be bound to the legal qualification contained within the decision.

(6) When the court of second instance confirms the decision of first instance adopted in accordance with Article 118 paragraph (7) of this Law, it does not have to provide a written explanation in its decision.

## **Chapter Twenty Nine**

### **SPECIAL PROCEDURE**

### **MISDEMEANOR PROCEDURE AGAINST JUVENILES**

#### **Application of the provisions of this chapter**

## **Article 132**

In the misdemeanor procedure against juveniles, the provisions of this chapter shall apply, and other provisions of the misdemeanor procedure, envisaged in this Law shall apply only if they are not contrary to the provisions of this chapter.

## **Competence**

### **Article 133**

(1) The misdemeanor procedure against a juvenile is under the actual competence of the court of the area where the juvenile has a place of residence or a temporary place of residence.

(2) The misdemeanor procedure against a juvenile shall be urgent.

## **Separation of the misdemeanor procedure**

### **Article 134**

(1) When a misdemeanor liable juvenile has participated in the committing of the misdemeanor together with adults, the misdemeanor procedure against him/her shall be separated and shall be conducted in accordance with the provisions of this chapter.

(2) Due to justified reasons, when for the purposes of unanimity of the evidence it would not be purposeful to separate the procedure, the misdemeanor procedure against a juvenile can be conducted together with the misdemeanor procedure against the adults, and in that case it shall be conducted according to the general provisions of this Law.

(3) When a single misdemeanor procedure is conducted against juvenile and adult offenders, with respect to the juvenile Articles 137 and 138 of this Law shall apply.

## **Summoning a juvenile**

### **Article 135**

(1) The juvenile shall be summoned through the parent i.e. the guardian, except if that is not possible due to the need to act urgently or other important reasons.

(2) If the summoning of the juvenile is not done through the parent i.e. the guardian, the court conducting the misdemeanor procedure shall inform the parent i.e. the guardian of the initiating of the procedure.

## **Opinion of a guardian authority**

### **Article 136**

(1) If a misdemeanor procedure is initiated against an older juvenile, with respect to a misdemeanor related to violence, severe violations of the public order or a recidive misdemeanor, prior to the adoption of a misdemeanor decision the court shall obtain an opinion on the juvenile's personality from the guardian authority.

(2) The guarding authority shall, in its opinion point out, all the circumstances of significance for making a right and legal decision and especially the previous behavior of the juvenile and his/her family circumstances.

(3) The guarding authority, as well as other bodies and organizations which have been asked to provide information, reports or opinions, are required to act most urgently.

### **Duty to testify**

#### **Article 137**

Nobody may be released from the duty to testify of the circumstances of significance for the assessment of the mental state of development of the juvenile and of getting to know his/her personality and the circumstances in which he/she lives.

### **Rights of the parent i.e. guardian**

#### **Article 138**

(1) In the misdemeanor procedure against juveniles, the guardian authority and the parent i.e. guardian of the juvenile, shall have the right to become familiar with the course of the procedure and during the procedure, give proposals and point to the facts and evidence of significance for making a just decision.

(2) When undertaking activities towards a juvenile in his/her presence, and especially during his/her interrogation, the persons participating in the misdemeanor procedure shall be obligated to act carefully, taking into account the level of mental development, sensitivity and personal characteristics of the juvenile.

### **Termination of the procedure**

#### **Article 139**

(1) If during the misdemeanor procedure, it is determined that the juvenile in the moment of committing the misdemeanor hasn't reached 14 years of age (child), the misdemeanor procedure shall be terminated with a determination.

(2) In the event referred to in paragraph (1) of this Article, the court shall inform the parent i.e. guardian of the juvenile, as well the guardian authority of the misdemeanor being committed, and, if necessary, it shall inform the school i.e. organization or the community where the juvenile is put for educational purposes.

### **Authorization of the court to assess the purposefulness of the procedure**

#### **Article 140**

(1) After having previously obtained an opinion from an social service body, the court can decide not to initiate a misdemeanor procedure against the juvenile, if it finds that it would not serve the purpose to conduct the procedure, considering the nature of the misdemeanor and the circumstances in which the misdemeanor has been committed, the previous way of life of the juvenile and his/her personal characteristics.

(2) In the event referred to in paragraph (1) of this Article, the motion to initiate the misdemeanor procedure shall be dismissed with a determination, and the explanation shall contain the reasons wherefore the motion was dismissed. The parent i.e. guardian and the guardian authority shall be informed of the committed misdemeanor.

## **Mandatory interrogation**

### **Article 141**

(1) In the misdemeanor procedure against a juvenile, a misdemeanor determination cannot be adopted without his/her interrogating.

(2) The juvenile shall not pay the costs of the misdemeanor procedure, if s/he was only reprimanded.

## **Decisions within the procedure**

### **Article 142**

(1) The procedure against a juvenile shall conclude with a determination by means of which a misdemeanor sanction is imposed against the juvenile.

(2) The court can terminate the procedure against the juvenile in case when the conditions referred to in Articles 119 and 120 of this Law have been met.

## **Service of the decision**

### **Article 143**

(1) The juvenile shall be given a verified transcript of the verbally announced decision, within eight days from the day when the decision is announced.

(2) The parent i.e. guardian of the juvenile and the guardian authority shall be given a copy of the legally effective misdemeanor determination by means of which a misdemeanor sanction has been imposed on the juvenile.

## **Appeal against a determination**

### **Article 144**

(1) Against the misdemeanor determination adopted in a misdemeanor procedure against a juvenile, an appeal apart from the persons referred to in Article 351 of the Criminal Procedure Code, may be filed by the guardian, brother, sister and the provider of the juvenile.

(2) The persons referred to in paragraph (1) of this Article can file an appeal in favor the juvenile, even if this is contrary to his/her will.

## **Extraordinary legal remedies**

### **Article 145**

In the misdemeanor procedure against a juvenile, extraordinary legal remedies such as: petition for repeating the misdemeanor procedure and petition for protection of lawfulness, can be used.

## **Chapter Thirty**

### **PROCEDURE FOR CONFISCATION OF PROPERTY, PROPERTY GAINS AND SEIZURE OF OBJECTS**

#### **Article 146**

In the procedure for confiscation of property, property gains and seizure of objects, the provisions of the Criminal Procedure Code shall apply.

## **Chapter Thirty One**

### **COMPENSATION FOR DAMAGE, REHABILITATION AND OTHER RIGHTS OF THE PERSONS AGAINST WHOM SANCTIONS HAVE BEEN IMPOSED OR WHO HAVE WITHOUT GROUNDS BEEN DEPRIVED OF LIBERTY**

#### **Article 147**

In the procedure for compensation for damage, rehabilitation and other rights of persons against whom sanctions have been imposed or who have without grounds been deprived of liberty, the provisions of the Criminal Procedure Code shall apply.

## **Chapter Thirty Two**

### **ENFORCEMENT AND RECORD OF DECISIONS**

#### **Legal effectiveness and enforcement of a verdict and a determination**

#### **Article 148**

(1) With respect to the enforcement of the sanctions imposed in the misdemeanor procedure, the provisions of the Law on Enforcement of Sanctions shall apply accordingly.

(2) The provisions of the Law on Enforcement shall apply with respect to coercive enforcement, on the spot fine and the payment order.

(3) When the fine or the payment order have been paid in the post office or in another financial organization performing payment operations, it shall be obligated to render a copy of the performed payment to the court, within 8 days.

#### **Record of decisions**

#### **Article 149**

For each misdemeanor case, records shall be kept in the State Statistical Office, and the forms shall be determined with a rulebook adopted by the Minister of Justice.

## **Chapter Thirty Three**

## FINAL AND TRANSITIONAL PROVISIONS

### Article 150

The court rules of procedure shall regulate the action of the court with respect to record-keeping of the misdemeanor sanctions in accordance with Article 45 of this Law, within 30 days from the day this Law enters into force.

### Article 151

(1) The ongoing procedures shall be completed in accordance with the provisions of the existing Law, within at most one year from the day of entering into force of this Law.

(2) The legally effective sentences shall be enforced in accordance with the existing Law.

(3) The sentences imposed in first instance in accordance with the Law on Misdemeanors ("Official Gazette of the Republic of Macedonia" no. 15/97), until the adoption of a legally effective decision, shall be replaced with an appropriate sanction, the imprisonment should be replaced with a fine, and in the event of repeating the procedure, the new procedure shall be conducted in accordance with this Law.

### Article 152

On the day this Law enters into force, the misdemeanor procedures, not completed according to the provisions of the Law on Misdemeanors ("Official Gazette of the Republic of Macedonia" no. 15/97), shall be completed in accordance with the provisions of this Law if they are more favorable for the defendant.

### Article 153

The by-laws envisaged with this Law shall be adopted within six months from the day this Law enters into force.

### Article 154

The state bodies shall be obligated, to harmonize the laws prescribing misdemeanor sanctions, with the new misdemeanor sanctions prescribed in this Law, within twelve months from the day of entering into force of this Law.

### Article 155

On the day this Law enters into force, the Law on Misdemeanors ("Official Gazette of the Republic of Macedonia" no. 15/97) shall cease to be valid.

### Article 156

This Law shall enter into force on the eighth day from the day of its publication in the "Official Gazette of the Republic of Macedonia".

<b>PROVISIONS</b>	<b>OF</b>	<b>OTHER</b>	<b>LAW:</b>
Law Amending the Law on Misdemeanors ("Official Gazette of the Republic of Macedonia" no.			

51/2011):

**Article**

**3**

The state bodies shall harmonize the laws regulating the time barring of the initiation and conduct of the misdemeanor procedure in a period of six months as of the day this Law enters into force.

**Article**

**4**

The provisions of this Law shall apply to misdemeanors committed as of the day this Law enters into force.