

Legislative news in Latvia: Planned amendments in the Criminal Procedure Law

The Ministry of Justice has drafted amendments to the Criminal Procedure Law ("CPL") (draft ID No. 23-TA-798), the draft law is currently at the stage of ministerial coordination after public consultation, the planned date of entry into force of the amendments is 1 January, 2024.

The draft law, as it currently stands, plans to extend the possibility of the court of appeal to hear criminal cases in a written procedure, to abolish the security measure of placement in a social correctional education institution, to amend the procedure for authorisation of attorney at law in criminal proceedings by providing for a power of attorney and an order (instead of the current – just an order) for representation, etc. In addition, the amendments are intended to implement the requirements of Directive 2010/64/EU of the European Parliament and of the Council of 20 October, 2010 ("Directive") on interpretation and translation in criminal proceedings.

It is planned to remove the Article 29, part two, point 5 of the CPL, which provides for the right of an investigator to appeal against instructions of a higher prosecutor. Under the current rules, the supervising prosecutor has the right to participate in procedural steps aimed at cooperation with the person entitled to a defence, as well as in the choice of a simpler procedure. Article 37, part eight of the CPL is also to be amended to provide that the supervising prosecutor has the right to participate in procedural acts carried out by the person directing the proceedings or a member of the investigation team, with a view to preventing the need to re-examine a person entitled to the right of defence. The amendment of the Article 39.1, part two of the CPL, by adding point 6, provides for the right of the chief prosecutor to appoint a higher prosecutor in criminal proceedings, thus including such right in an external normative act, in addition to the authorisation provided for by an internal normative act.

The amendments to Article 343 of the CPL also provide for a uniform time limit for the examination of complaints – 30 days. Currently, Article 343 of the CPL provides that complaints for which the CPL does not provide for other time limits shall be examined within 10 days of their receipt. However, in cases where it is necessary to obtain additional material or to take other measures in order to examine the complaint, it is permissible to examine the complaint within 30 days by giving notice to the complainant without burdening the examiner with preparing an additional notice to the complainant within the 10 day period.

On 1 January 2023, amendments to the Act on the Application of Coercive Measures of an Educational Nature to Children entered into force, providing for the introduction of a new coercive measure of an educational nature – probation supervision. Therefore, it is planned to amend Article 39, part one, point 6.2. of the CPL, which currently provides for the obligation of the public prosecutor as the instigator of proceedings to request an assessment report from the State Probation Service on a minor accused of committing a criminal offence, by additionally providing that such a report will not have to be requested if it has already been requested by the investigating officer.

On the other hand, the amendments to Articles 93, 104, 105 and 111.1 of the CPL regarding the representation of a legal person, a victim, as well as the owner of the damaged property, are planned to introduce the requirement of a warrant and a power of attorney for representation and defence, taking into account that there is no common opinion on the part of the initiators of proceedings as to whether an attorney in law is required to submit an order, power of attorney, notarised power of attorney or an order and power of attorney when providing representation.

The amendments to Article 319, part three of the CPL provide for the rights of the judge, on his/her own initiative, order oral proceedings, and for the addition of a part five, stating that the court may render a summary decision, the full decision being prepared by the court within 10 days.

In the light of the European Commission's conclusion that the exceptions provided for in Article 321.1, part three of the CPL do not meet the requirements of Article 3, part seven of the Directive, on the basis of which interpretation could be justified only in exceptional cases, the planned amendments will exclude the exception provided for in Article 321.1, part three of the CPL where the accused is not provided with written interpretation in a language he/she understands.

Amendments to Article 412 of the CPL provide for the addition of a new part five and provide that the prosecutor shall, at the request of the owner of the property affected, provide copies of the case files which directly relate to the property subject to seizure and in respect of which the criminal origin of the property is presumed, or shall, with the consent of the prosecutor, present these criminal case files.

The draft law and the annotation are available on the Cabinet of Ministers' website: https://tapportals.mk.gov.lv/legal_acts/7fb27ce5-ecf6-41b1-84b6-481c9f5...