THE LAW
OF THE REPUBLIC OF ARMENIA

Adopted on 5 February 2009

ON MAKING AMENDMENDTS AND ADDENDA IN THE CRIMINAL PROCEDURAL CODE OF THE REPUBLIC OF ARMENIA

Article 1. In Article 6 of the Criminal Procedural Code of the Republic of Armenia as of 1 July 1998 (hereinafter the Code),

1) write down Paragraph 12 with the following changes:

"12) the court of first instance of general jurisdiction (hereinafter court of first instance) is the court which has the right to try all criminal cases, other cases (materials) envisaged by the criminal procedural legislation, as well as to oversee the pre-trial investigation of the criminal case."

Article 2. Replace the words "the courts of first instance, criminal" with the words "of first instance" in Article 38 of the Code.

Article 3. In Article 39 of the Code,

1) replace the words "of general jurisdiction" with the words "of first instance" in Part 2;

2) Consider Part 3 invalid.

Article 4. Write down Article 44 of the Code with the following changes:

«Article 44. The cases under the jurisdiction of the courts of first instance

"The courts of first instance try all criminal cases, other cases (materials) envisaged by the criminal procedural legislation, as well as oversee pre-trial investigation of the criminal case."

Article 5. In Article 45 of the Code,

1) remove the word "criminal" from the title;

2) replace the words "of general jurisdiction and criminal" with the words "of first instance."

Article 6. Write down Article 46 with the following changes:

«Article 46. The cases under the jurisdiction of the Court of Cassation of the Republic of Armenia

Under the jurisdiction of the criminal chamber of the Court of Cassation of the Republic of Armenia are the cases relating to judicial acts passed by the court of appeal but not yet in effect, while in exclusive cases envisaged by the criminal procedural legislation, also the cases relating to judicial acts which have already taken effect."

Article 7. Write down Part 1 Article 47 of the Code with the following changes:

"1. A court of first instance has jurisdiction over those cases of offense which have been committed on the judicial territory of the respective court of first instance."

Article 8. In Article 48 of the Code,

1) Consider Part 1 invalid;
2) replace the words “of general jurisdiction or criminal” with the words “of first instance” in Part 2.

Article 9. In Article 49 of the Code,

1) replace the words “44 or 47” with the words “44, 47 or 48” in Part 2;
2) remove the words “subject or territorial” from Part 2;
3) Consider Part 3 invalid.

Article 10. In Article 69 of the Code,

1) in paragraph 10 of Part 1, replace the full stop with a colon;
2) add Paragraph 11 with the following content to Part 1:
“11) the court applies the sanction envisaged by Paragraph 2 Part 1 Article 314.1 of this Code.”
3) In paragraph 7 of Part 2, replace the full stop with a colon;
4) add Paragraph 8 with the following content to Part 2:
“8) from the moment of application of the sanction, in the case envisaged by Paragraph 11 Part 1 of this Article.”
5) add Part 5 with the following content:
“5. In the event envisaged by Paragraph 11 Part 1 of this Article, the court does not accept the refusal of the defendant from the defense attorney and, according to the regulations established by this Code, appoints a defense attorney or maintains the power of the appointed defense attorney.”

Article 11. Remove the second sentence of Part 1 Article 291 of the Code.

Article 12. In Article 292 of the Code, replace the words “, when the case in the criminal court is heard in a joint composition, other judges included in the judicial composition also examine” with the word “examines.”

Article 13. In Article 302 of the Code, add the words “, except for the cases envisaged in Part 6 Article 314.1 of this Code” after the words “it is obligatory.”

Article 14. Write down Part 6 Article 314.1 with the following changes:
“6. In the event the defendant, during criminal proceedings, violates the regulations of the trial, creates obstacles for the natural flow of the trial or does not obey the instructions of the chairman, the court applies a warning. In the meantime, the chairman explains to the defendant that in case the latter violates the regulations of the trial, creates obstacles for the natural flow of the trial yet another time or does not obey the instructions of the chairman, s/he can be removed from the court room. Causing obstacles for the natural flow of the judicial proceeding or disobedience to the instructions of the chairman by the defendant yet another time during the same hearing provide grounds for application of the sanction envisaged in Paragraph 2 Part 1 of this Article, in case of which, the hearing of the case is continued in absence of the defendant, however the verdict is announced in presence of the defendant.
In the event of demonstration of disrespectful attitude toward the court, the court applies the sanction envisaged in Paragraph 2 Part 1 of this Article to the defendant without a warning, and the hearing of the case is continued in absence of the defendant, however the verdict is announced in presence of the defendant, or the verdict is handed to the defendant immediately after the announcement.
According to the regulations established by this Part, the defendant is removed from the court room for the period up to 10 days.”

Article 15. In Article 328 of the Code, add the words “as well as his/her rights in case of application of a judicial sanction according to the regulations envisaged by Part 6 Article 314.1 of this Code” after the word “responsibilities.”

Article 16. In Article 361.1,
1) remove the word “Criminal” from the title;
2) remove the word “Criminal” from Part 1.

Article 17. Replace the words “of general jurisdiction” with the words “of first instance” in Paragraph 5 Article 376.1 of the Code.

Article 18. Add the words “, except for the case envisaged by Part 6 Article 314.1 of the Code” after the word “in absence” in Paragraph 3 Part 3 Article 398 of the Code.

Article 19. Add the words “within one month” after the words “from the moment of publication” in Part 1 Article 402.

Article 20. Write down Article 412 of the Code with the following changes:

«Article 412. Deadlines for appealing judicial acts

1. The cassation appeal can be brought against the judicial act of the appellate court resolving the case on its merits within one month from the moment of publication of the verdict, while the cassation appeal can be brought against the judicial act of the appellate court not resolving the case on its merits within 15 days from the moment of reception of the act, if no other procedure is envisaged by the law.

2. In cases specified by Part 6 Article 21 of this Code, a cassation appeal can be brought on the grounds of improvement of conditions of a person without time limitations, and a cassation appeal on the grounds of deterioration of conditions of a person can be brought within 6 months from the moment the judicial act takes effect.”

Article 21. Transitory provisions

1. This law takes effect from 1 March 2009.

2. If, by the time this law takes effect, the sanction envisaged by Paragraph 2 Part 1 Article 314.1 of this Code is applied, the term of adjournment for the detained persons is counted in the term of the punishment.

3. Once this law takes effect, the cases included in the workflow of the criminal courts but not heard yet are forwarded to a court of first instance according to the territorial jurisdiction.

4. By the time this law takes effect, the trials that have already been started should finish with the same composition of the judge (judges).

A verdict or any other final decision relating to the mentioned cases is passed on behalf of the court which according to this law has jurisdiction over the tried case.

5. The norms (established by this law) relating to the time frames of effectiveness of judicial acts shall be applied to the judicial acts adopted after the effectiveness of this law. The judicial acts adopted before the effectiveness of this law can be appealed within the time frames effective at the moment of adoption of those acts.

6. The court of first instance which has jurisdiction, after this law’s coming into effect, over the respective case is considered as a competent court for the resolution of the issues arising at the stage of implementation of the verdicts on the cases tried and completed by criminal courts.

The President of the Republic of Armenia **S.Sargsyan**

11 February 2009
Yerevan
ՀՕ-45-Ն

Article 3141. Sanctions applied by the court

1. In the event of demonstrating disrespectful attitude toward the court, creating obstacles for the natural flow of the procedure, improper exercise of procedural rights, or failure in discharging the procedural duties without a reasonable excuse, or discharging them improperly, the court has the right to apply the following judicial sanctions to participants of the judicial proceeding, persons participating in the criminal proceeding, as well as other persons present at the court hearing:

1) warning,

2) removal from the court room,

3) judicial penalty,

4) submission of an application respectively to the Prosecutor General or Chamber of Advocates with an appeal to hold the person accountable.

2. The sanction should be proportionate to the gravity of the action and should serve the purpose of ensuring the natural flow of the court procedures. The warning and removal from the court room are applied on the basis of the protocol decision made during the same hearing by the court.

3. Removal from the court room can not be applied to the witness testifying at the given moment.

4. In the event the decision on removal from the court room is not complied with immediately and voluntarily, the decision is executed in a compulsory order through the Judicial Department of the Republic of Armenia.

5. The judicial penalty is applied to the participants of the judicial proceeding as well as persons participating in the case. The applied judicial penalty can not exceed the amount of 100.000 drams. The amount of the judicial penalty is determined at the discretion of the court; however apart from the gravity of the action, personality of the individual who performed the action should be taken into account as well. The judicial penalty is applied on the basis of a separate decision made during the same hearing by the court. In the event the decision on applying judicial penalty is not complied with voluntarily, the decision is subject to execution in a compulsory order in line with the regulations established by the RA Law on "On compulsory execution of judicial acts."

6. In the event the defendant violates, during criminal proceedings, the regulations of the trial, creates obstacles for the natural flow of the trial or does not obey the instructions of the chairman, the court applies a warning. In the meantime, the chairman explains to the defendant that in case the latter violates the regulations of the trial, creates obstacles for the natural flow of the trial or does not obey the instructions of the chairman yet another time, he/she can be removed from the court room. Causing obstacles for the natural flow of the judicial proceeding or disobedience to the instructions of the chairman by the defendant yet another time during the same hearing provide grounds for application of the sanction envisaged in Paragraph 2 Part 1 of this Article, in case of which, the hearing of the case is continued in absence of the defendant, however the verdict is announced in presence of the defendant.

In the event of demonstration of disrespectful attitude toward the court, the court applies the sanction envisaged in Paragraph 2 Part 1 of this Article to the defendant without a warning, and the hearing of the case is continued in absence of the defendant, however the verdict is announced in presence of the defendant, or the verdict is handed to the defendant immediately after the announcement.

According to the regulations established by this Part, the defendant is removed from the court room for the period up to 10 days.

7. Sanctions exclusively envisaged in Paragraphs 1 and 4 Part 1 of this Article should be applied to the prosecutor participating in the hearing of the case and the lawyer participating in the hearing of the case as a representative of a party or as a defense attorney. Submission of an application either to the Prosecutor General or Chamber of Advocates is realized on the basis of a separate decision made by the court during the same hearing.

The judicial sanction envisaged in Paragraph 4 Part 1 of this Article is a compulsory basis for filing a disciplinary investigation with respect to the prosecutor or lawyer.

8. The decision of the court on applying a judicial sanction takes effect from the moment of its publication. The decision of the court on applying judicial penalty can be appealed at a court of higher instance within the period of three days after the publication.

9. Application of judicial sanction is not an obstacle for applying other measures of punishment envisaged by the law to the person subjected to the sanction.

(Article 314: supplemented on 21.02.07 ՀՕ-93-Ն, edited on 05.02.09 ՀՕ-45-Ն)

Article 309. LIMITS TO COURT TRIAL

1. Consideration of the case in court is done only in relation to the defendant and only within the limits of the charges by which the defendant had been brought to court.

2. During the court trial, changes in the charges are allowed if as a result of the changes the conditions of the defendant are not deteriorated and the right of the defendant to defense is not violated. It is allowed to make changes in terms of aggravating the charges only in line with the regulations and in cases established by this Code.

(Article 309 edited on 28.11.07 ՀՕ-270-Ն)

Article 309[1]. Limits to making changes and supplements to the filed charges

1. If, during the trial at the court of first instance, the prosecutor finds that the charges brought against the defendant need to be changed or supplemented in terms of aggravation or mitigation – since circumstances that were not and could not have been known during the pre-trial investigation have arisen – and if the factual circumstances of the case do not make it possible to change or supplement the charges without the adjournment of the court trial, the prosecutor files a motion before the court asking to adjourn the trial for the purpose of changing or supplementing the charges and presenting new ones. The prosecutor can make such a motion before the court leaves for the deliberation chamber.

2. In case of presence of grounds envisaged by Part 1 of this Article, the court adjourns the trial at the motion of the prosecutor for the purpose of conducting the needed investigatory and other procedural actions and presenting new charges. The trial can be adjourned for no more than one month except for the cases when a reasonably longer period is required for conducting investigatory and other procedural actions.

In case of changing or supplementing the charges, the prosecutor prepares a decision on changing or supplementing the charges and presenting new ones; the decision, along with the obtained materials, is submitted to the court.

3. The prosecutor can change the charges before the court leaves for the deliberation chamber; the prosecutor can do so also in terms of aggravation of the charges if the evidence examined during the court trial undeniably testify to the fact that the defendant committed a crime other than the one incriminated to him/her.

4. The court provides the victim, civic claimant, civic defendant, or their representatives with time for studying the new charges in case of a motion made by them; the court provides the defendant and the defense attorney with time regardless of a motion.

5. If, during the court trial, it becomes apparent that the legal qualification of the defendant's action was not correct, and if the prosecutor does not make a decision to re-qualify the action in terms of its aggravation or does not make a motion as to adjourning the trial for the purpose of re-qualification, the court, by its own initiative, adjourns the trial for up to 10 days, offering the Prosecutor General or the Deputy Prosecutor General to reaffirm the indictment.

After the reaffirmation of the indictment the court passes a judicial act in line with the indictment.

6. If, as a result of re-qualification of the action, changes in terms of trial jurisdiction of the criminal case occur, this issue is resolved in line with the general regulations specified by this Code.

(Article 309[1] *supplemented on 28.11.07 ՀՕ-270-Ն)*

Article 309[2]. Bringing charges against another person during the court trial

If, during the trial at the court of first instance, new circumstances arise that provide grounds for bringing charges against another person (other persons) within the same criminal case, who was not charged within the given case, the prosecutor has the right to file a new criminal case. If the results of the newly filed criminal case can lead to the changes or supplements in the charges brought against the defendant, the court adjourns the trial of the case based on the motion made by the prosecutor.

Consideration of the adjourned criminal case is done in line with the rules established by Article 309[1] of this Code. Investigation of the newly filed criminal case is conducted according to the general principles.

(Article 309[2] *supplemented on 28.11.07 ¿O-270-Ս)*