

**CRIMINAL-PROCEDURAL CODE  
OF THE RUSSIAN FEDERATION**

**NO. 174-FZ OF DECEMBER 18, 2001**

(with the Amendments and Additions of May 29, July 24, 25, October 31, 2002, June 30, July 4, 7, December 8, 2003, April 22, June 29, December 2, 28, 2004, June 1, 2005)

This Code comes into force as of July 1, 2002, with the exception of the provisions, for which other dates and procedure for putting into operation are established by Federal Law No. 177-FZ of December 18, 2001

Passed by the State Duma on November 22, 2001

Approved by the Federation Council on December 5, 2001

**Part One. General Provisions**

**Section I. Basic Provisions**

**Chapter 1. Criminal-Procedural Legislation**

**Article 1. Laws Defining the Procedure for Criminal Court Proceedings**

1. The procedure for criminal court proceedings on the territory of the Russian Federation is established by the present Code, based on the Constitution of the Russian Federation.
2. The procedure for criminal court proceedings, established by this Code, is obligatory for courts, prosecutor's offices, preliminary investigation and inquiry bodies, as well as for other participants in the criminal court proceedings.
3. The generally recognized principles and norms of international law and international treaties of the Russian Federation make up a component part of the legislation of the Russian Federation regulating criminal legal proceedings. If an international treaty of the Russian Federation has laid down the rules different from those stipulated by the present Code, the rules of the international treaty shall be applied.

**Article 2. Operation of the Criminal Procedural Law in Space**

1. Proceedings on a criminal case on the territory of the Russian Federation, regardless of the place of committing the crime, shall be conducted in conformity with this Code, unless otherwise stipulated by an international treaty of the Russian Federation.

2. The norms of the present Code shall also be applied in the procedure on a criminal case for a crime committed on an air, sea or river vessel, flying the Flag of the Russian Federation, and outside the territory of the Russian Federation, if the said ship is registered in a port of the Russian Federation.

### **Article 3. Operation of the Criminal Procedural Law with Respect to Foreign Citizens and Stateless Persons**

1. Proceedings on the criminal cases, committed on the territory of the Russian Federation by foreign citizens or by stateless persons shall be conducted in conformity with the rules of the present Code.

2. Procedural actions stipulated by the present Code with respect to the persons enjoying diplomatic immunity, shall be conducted only at the request of the said persons or with their consent, which shall be inquired after through the Ministry of Foreign Affairs of the Russian Federation.

### **Article 4. Operation of the Criminal-Procedural Law in Time**

In proceedings conducted in a criminal case, there shall be applied criminal-procedural law, operating during the performance of the corresponding procedural action or during the adoption of a procedural decision, unless otherwise is established by the present Code.

### **Article 5. Principal Concepts Used in this Code**

Unless otherwise specified, the principal concepts, used in the present Code, shall have the following meaning:

- 1) alibi - the suspect's or the accused person's being in a different place at the moment when the crime is committed;
- 2) appeals instance - the court examining criminal cases on appeal upon complaints and presentations, filed against the sentences and rulings of the court which have not yet come into legal force;
- 3) close persons - other persons not including close relatives and relations maintaining a relationship with the victim or with the witness, as well as persons, whose life, health and welfare mean a lot to the victim or to the witness because of existing personal relations;
- 4) close relatives - husband, wife, parents, children, adopters, the adopted, blood brothers and sisters, grandfather, grandmother and grandchildren;
- 5) verdict - the decision as to whether the man on trial is guilty or not guilty, passed by a college of jurors;

preliminary investigation, with the exception of the conclusion of guilt or a bill of indictment;

26) president of the court - the judge who is leading a court session in the collegiate examination of a criminal case, as well as the judge, considering a criminal case on his own;

27) presentation - the act of the prosecutor's response to the court decision, made in accordance with the procedure established by the present Code;

28) sentence - the decision on whether the person on trial is or is not guilty, or on his relief from the punishment, passed by the court of the first or of the appeals instance;

29) application of a measure of restriction - the procedural actions, performed as from the moment of adopting the decision on selecting a measure of restriction and until it is cancelled or modified;

30) juror - the person, drawn into the participation in the court proceedings and into delivering a verdict in conformity with the procedure, established by the present Code;

31) prosecutor - the Prosecutor-General of the Russian Federation and the prosecutors in his/her subordination, as well as their deputies and other officials of a prosecutor's office participating in criminal court proceedings and vested with relevant powers by the federal law on the prosecutor's office;

32) procedural action - an investigatory, judicial or another action, stipulated by the present Code;

33) procedural decision - the decision adopted by the court, by the prosecutor, the investigator or the inquirer in accordance with the procedure, established by the present Code;

34) rehabilitation - the procedure for the reinstatement of the person, who has been unlawfully or groundlessly subjected to the criminal prosecution, in his rights and freedoms, and for the compensation of the harm done to him;

35) rehabilitated person - the person who possesses, in conformity with the present Code, the right to the recompense of the harm done to him in connection with an unlawful or a groundless criminal prosecution;

36) retort - an observation, made by the participant in the parties' presentations concerning the arguments voiced by the other participants;

36.1) results of operative search activities - data gained in compliance with the federal law on operative search activities, on the signs of a crime which is being prepared, committed or has been already committed, on persons who

the private prosecution - to put forward and to support the prosecution in accordance with the procedure established by the present Code.

### **Article 23. Involvement in the Criminal Prosecution upon Application of a Commercial or Other Organisation**

If an act envisaged by Chapter 23 of the Criminal Code of the Russian Federation has inflicted damage upon the interests of an exclusively commercial or of another kind of organisation that is not a state or a municipal enterprise, while not inflicting a damage upon the interests of other organisations or upon the interests of the citizens, of the society or of the state, the criminal case shall be instituted upon application from the head of the given organization or with his consent.

## **Chapter 4. Grounds for Refusal of the Institution of a Criminal Case and for Termination of Criminal Case or Criminal Prosecution**

### **Article 24. Grounds for Refusal to Institute a Criminal Case or to Terminate a Criminal Case**

1. A criminal case cannot be instituted, and or instituted criminal case shall be subject to termination on the following grounds:

- 1) absence of the event of a crime;
- 2) absence of the corpus delicti in the act;
- 3) expiry of the deadlines for criminal prosecution;
- 4) death of the suspect or of the accused, with the exception of cases when the proceedings on the criminal case are necessary for the rehabilitation of the deceased;
- 5) absence of the victim's application, if the criminal case may be instituted only upon his application, with the exception of cases envisaged by the fourth part of Article 20 of the present Code;
- 6) lack of a court statement as to the availability of elements of crime in the actions of one of the persons mentioned in Items 1, 3 - 5, 9 and 10 of Part 1 of Article 448 of the present Code or lack of the consent of the Federation Council, the State Duma, the Constitutional Court of the Russian Federation, the qualification college of judges respectively to the opening of a criminal case or prosecution as the accused of one of the persons mentioned in Items 1 and 3-5 of Part 1 of Article 448 of the present Code.

2. The criminal case shall be subject to termination on the ground, envisaged by Item 2 of the first part of this Article, if the criminality and punishability of the action in question have been eliminated by the new criminal law before the sentence came into legal force.

**Article 413. Grounds for Resumption of the Proceedings on a Criminal Case Because of New or Newly Revealed Circumstances**

1. The court sentence, ruling or resolution, which has come into legal force, may be cancelled and the proceedings on a criminal case may be resumed because of new or newly revealed circumstances.
2. Seen as the grounds for the resumption of the proceedings on a criminal case, in accordance with the procedure established by the present Chapter, shall be:
  - 1) newly revealed circumstances - the circumstances, pointed out in the third part of this Article, which existed at the moment of the entry into legal force of the sentence or other judicial decision, but were unknown to the court;
  - 2) new circumstances - the circumstances, indicated in the fourth part of this Article, unknown to the court at the moment when it passed the judicial decision, which eliminate the criminality and the punishability of the act.
3. Seen as the newly revealed circumstances shall be:
  - 1) a deliberate falsity of the evidence of the victim or of the witness, or of the expert's conclusion, as well as the forgery of the demonstrative proof, of the protocols of the investigative and the judicial actions and of other documents, or a deliberate erroneousness of the translation, which have entailed the passing of an unlawful, unsubstantiated or unjust sentence or of an unsubstantiated ruling or resolution;
  - 2) the criminal actions of the inquirer, the investigator or the public prosecutor, which have entailed the adjudgement of an unlawful, unsubstantiated or unjust sentence, or of an unlawful or unsubstantiated ruling or resolution;
  - 3) the criminal actions of the judge which he has committed during the examination of the criminal case, established by the court sentence that has entered into legal force.
4. Seen as new circumstances shall be:
  - 1) recognizing by the Constitutional Court of the Russian Federation of the law, applied by the court in the given criminal case, as not corresponding to the Constitution of the Russian Federation;
  - 2) a violation of the provisions of the Convention on the Protection of Human Rights and Basic Freedoms, established by the European Court on Human Rights, during the examination of the criminal case by a court of the Russian Federation, involved in:

a) an application of the federal law, not corresponding to the provisions of the Convention on the Protection of Human Rights and Basic Freedoms;

b) other violations of the Convention on the Protection of Human Rights and Basic Freedoms;

3) other new circumstances.

5. The circumstances, indicated in the third part of this Article, may be established, in addition to the sentence, by a ruling or a resolution of the court, by a resolution of the public prosecutor, of the investigator or of the inquirer on the termination of the criminal case on account of an expiry of the term of legal limitation, of an act of amnesty or an act of mercy, in connection with the death of the accused or on account of the person not reaching the age, from when the criminal liability sets in.

#### **Article 414. Time Terms for the Resumption of the Proceedings**

1. Revision of the sentence of conviction because of new or newly revealed circumstances in favour of the convict is not limited by any time terms.

2. The death of the convict shall not be seen as an obstacle to resuming the proceedings on the criminal case for the purpose of his rehabilitation because of new or newly revealed circumstances.

3. Revision of the sentence of acquittal, or of the ruling or resolution on the termination of the criminal case, or of the sentence of conviction in connection with the mildness of the punishment or with the need to apply towards the convict a criminal law on a more serious crime, shall be admissible only within the term of legal limitation for bringing to criminal liability, established by Article 78 of the Criminal Code of the Russian Federation, and not later than within one year from the day when newly revealed circumstances were exposed.

4. Seen as the day of exposure of new or newly revealed circumstances shall be:

1) the day of the entry into legal force of the court sentence, ruling or resolution with respect to the person, guilty of giving a false evidence, submitting forged proof or making a wrong translation, or of the criminal actions he has perpetrated during the criminal court proceedings - in the cases, pointed out in the third part of Article 413 of the present Code;

2) the day of the entry into force of the decision of the Constitutional Court of the Russian Federation on the non-correspondence of the law, applied in the given criminal case, to the Constitution of the Russian Federation - in the case, indicated in Item 1 of the fourth part of Article 413 of the present Code;

3) the day of the entry into force of the decision of the European Court on Human Rights on the fact of violating the provisions of the Convention on the

Protection of Human Rights and Basic Freedoms - in the case, described in Item 2 of the fourth part of Article 413 of the present Code;

4) the day, on which the public prosecutor signed the conclusion on the need to resume the proceedings because of new circumstances - in the case, presented in Item 3 of the fourth part of Article 413 of the present Code.

#### **Article 415. Institution of the Proceedings**

1. The right to institute proceedings on account of new or newly revealed circumstances shall belong to the public prosecutor, with the exception of the cases, envisaged in the fifth part of this Article.

2. Seen as the reasons for an institution of the proceedings because of new or newly revealed circumstances may be the communications of the citizens and of the official persons, as well as data obtained in the course of the preliminary inquisition and of the court examination of the other criminal cases.

3. If in the communication there is a reference to the existence of the circumstances, pointed out in Items 1-3 of the third part of Article 413 of the present Code, the public prosecutor shall institute by his resolution the proceedings on account of the newly revealed circumstances, shall conduct the corresponding verification and shall demand a copy of the sentence and a reference note from the court on its entry into legal force.

4. If in the communication there is a reference to the existence of circumstances, mentioned in Item 3 of the fourth part of Article 413 of the present Code, the public prosecutor shall pass a resolution on an institution of the proceedings because of the new circumstances and shall carry out the inquisition of these circumstances, or shall give the corresponding orders to the investigator. During the inquisition of the new circumstances, the investigative and other procedural actions may be carried out in conformity with the procedure established by the present Code.

5. Revision of the court sentence, ruling or resolution in accordance with the circumstances, indicated in Items 1 and 2 of the fourth part of Article 413 of the present Code, shall be performed by the Presidium of the Supreme Court of the Russian Federation at the presentation of the President of the Supreme Court of the Russian Federation not later than one month from the day of arrival of the given presentation. On the results of examining this presentation, the Presidium of the Supreme Court of the Russian Federation shall either cancel or amend the judicial decisions on the criminal case in conformity with the resolution of the Constitutional Court of the Russian Federation or with the resolution of the European Court on Human Rights. Copies of the resolution of the Presidium of the Supreme Court of the Russian Federation shall be forwarded within three days to the Constitutional Court of the Russian Federation, to the person, with respect to whom the given resolution is passed, to the public prosecutor and to the Authorized Person of the Russian Federation in the European Court on Human Rights.