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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

LAW

AMENDING AND SUPPLEMENTING
THE CODE OF CRIMINAL PROCEDURE

OF BULGARIA

(2nd draft received by the Venice Commission on 5 November 2010)

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(Promulgated SG issue 86 of 2005, amended SG issue 46 of 2007, amended SG issue 109 of 2007, amended SG issue 69 of 2008, amended SG issue 109 of 2008, amended SG issue 12 of 2009, amended SG issue 27 of 2009, amended SG issue 32 of 2009, amended SG issue 33 of 2009, amended SG issue 15 of 2010, amended SG issue 32 of 2010)

§ 1. In Art. 35, par. 2 the numbers '321, 321a' shall be deleted, a comma shall be put at the end and the expression 'except the ones under the jurisdiction of the specialized criminal court under Art. 411a' shall be added.

§ 2. In Art. 141a, par. 2 and 3 the words '174, par. 5' shall be replaced by '174, par. 6'.

§ 3. Art. 174 shall be amended and supplemented, as follows:

1. A new par. 3 shall be created:

'(3) The permission to use special investigative means for cases under the jurisdiction of the specialized criminal court shall be given in advance by its chair or a deputy chair, expressly designated by him/her'

2. The current par. 3 shall become par. 4 and, in it, the words 'under par. 1 and 2' shall be replaced by 'paras. 1-3'.

3. The current par. 4 shall become par. 5.

4. The current par. 5 shall become par. 6.

5. The current par. 6 shall become par. 7 and, in it, the words 'par. 1 and 2' shall be replaced by 'paras. 1-3'.

§ 4. A new chapter thirty-one 'a' shall be created, containing Art. 411a-411f:

**'Chapter thirty-one 'a'
SPECIAL RULES FOR HEARING CASES UNDER THE JURISDICTION OF THE
SPECIALIZED CRIMINAL COURTS**

Cases under the jurisdiction of the specialized criminal court

Art. 411a. (1) The specialized criminal court shall have under its jurisdiction the cases for crimes under Art. 321 and Art. 321a of the Criminal Code.

(2) The specialized criminal court shall also have under its jurisdiction the cases for crimes under Art. 116, par. 1, item 10, Art. 131, par. 1, item 8, Art. 142, par. 2, item 8, Art. 155, par. 5, item 1, Art. 156, par. 3, item 1, Art. 159, par. 5, Art. 159d, Art. 199, par. 1, item 5, Art. 208, par. 5, Art. 235, par. 4, Art. 242, par. 1, letter 'g', Art. 253, par. 3, item 1, Art. 256, par. 2, Art. 278a, par. 3, Art. 330, par. 2, item 4, Art. 354a, par. 2, item 1 of the Criminal Code.

(3) The specialized criminal court shall also have under its jurisdiction the cases for crimes under paras. 1 and 2, committed abroad.

(4) When charges are pressed against one and the same person for several crimes, one of which is under the jurisdiction of the specialized criminal court, the case for all the crimes shall be under the jurisdiction of that court.

(5) When charges are pressed against several persons for having committed in complicity one or several crimes and one of the accomplices is triable by the specialized criminal court, the case shall be under the jurisdiction of that court.

(6) When two or more cases for different crimes against different persons have a relation, they shall be joined if their correct elucidation so requires. If one of the cases is under the jurisdiction of the specialized criminal court, the new case shall be heard by it.

(7) If a case is both under the jurisdiction of the specialized criminal court and the military court, it shall be heard by the military court.

Jurisdiction at the appellate and the cassation instance

Art. 411b. Cases, ruled upon by the specialized criminal court as first instance, shall be heard at the appellate instance by the specialized appellate criminal court and at the cassation instance – by the Supreme Court of Cassation, which shall also hear the motions for re-opening of cases of the specialized criminal court.

Bodies of pre-trial proceedings for cases under the jurisdiction of the specialized criminal court

Art. 411c. (1) The prosecutor from the specialized prosecutor's office and the investigative bodies shall be bodies of pre-trial proceedings for cases under the jurisdiction of the specialized criminal court.

(2) Investigative magistrates from the investigative unit of the specialized prosecutor's office and investigating police officers, designated by an order of the Minister of Interior shall be investigative bodies for cases under the jurisdiction of the specialized criminal court.

Actions of the prosecutor after closing the investigation

Art. 411d. The prosecutor shall execute his/her powers under Art. 242, par. 1 within 15 days after receiving the case file.

Special rules for the court proceedings for cases under the jurisdiction of the specialized criminal court

Art. 411e. (1) The cases under the jurisdiction of the specialized criminal court shall be heard by a court, composed pursuant to Art. 28.

(2) After initiating the case the court chair shall designate a judge rapporteur, who shall schedule an open court hearing or shall execute his/her powers under Art. 249-251 within a term not longer than 15 days.

(3) The handing of subpoenae, notifications and papers shall be done by a court officer, a body of pre-trial proceedings, through the services of the Ministry of Interior or through the services of the Ministry of Justice.

(4) The participants in the case shall be obligated to appear at the hearing regardless of them being subpoenaed before other courts or bodies of pre-trial proceedings.

(5) If a witness or an expert witness does not appear and has no good reason, he/she shall be brought in involuntarily on the next hearing day set by the court.

Application of the general rules

Art. 411f. As long as there are no special rules in this chapter, the general rules shall be applied.

Transitory and closing provisions

§ 5. (1) The court proceedings for cases under the jurisdiction of the specialized criminal court, where no court investigation has started, shall be terminated by the judge rapporteur and shall be transferred, as per jurisdiction, to the specialized criminal court.

(2) The unfinished pre-trial proceedings shall be finished by the investigative bodies, before which they are pending before this law enters into force.

§ 6. In the Law on Special Investigative Means (*Promulgated SG issue 95 of 21 October 1997, suppl. SG issue 70 of 6 August 1999, amended SG issue 49 of 16 June 2000, amended SG issue 17 of 21 February 2003, amended SG issue 86 of 28 October 2005, amended SG issue 45 of 2 June 2006, amended SG issue 82 of 10 October 2006, amended*

SG issue 109 of 20 December 2007, amended SG issue 43 of 29 April 2008, amended SG issue 109 of 23 December 2008, amended SG issue 88 of 6 November 2009, amended SG issue 93 of 24 November 2009, amended SG issue 103 of 29 December 2009, amended SG issue 32 of 27 April 2010) in Art. 15, par. 1 after the words 'Sofia City Court' the words 'and of' shall be deleted, a comma shall be put and after the words 'district courts' the expression 'and of the specialized criminal court' shall be added.

§ 7. This law shall enter into force on 1 January 2011.