Text consolidated by Tulkošanas un terminoloģijas centrs (Translation and Terminology Centre) with amending laws of:

28 September 2005;

19 January 2006;

21 December 2006;

17 May 2007.

If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The Saeima [1] has adopted and the President has proclaimed the following Law:

Criminal Procedure Law

Part A General Provisions

Chapter 1
Basic Provisions of Criminal Procedure

Section 1. Purpose of the Criminal Procedure Law

The purpose of the Criminal Procedure Law is to determine the order of criminal procedure – investigation of a criminal offence, criminal prosecution, and the trial of a criminal case – that ensures the effective application of the norms of the Criminal Law and the fair regulation of criminal legal relations without unjustified intervention in the life of a person.

Section 2. Sources of the Rights of Criminal Procedure

(1) Criminal procedure is determined by the Constitution of the Republic of Latvia, international legal norms, and this Law.

(2) In the application of the legal norms of the European Union (Communities), the case law of the Court of Justice of the European Communities shall be taken into account, and in the application of the legal norms of the Republic of Latvia, the interpretation of the appropriate norm provided in the judgment of the Constitutional Court shall be complied with.

(3) The norms of the criminal procedure of another state may be applied only in international co-operation on the basis of a request motivated by a foreign state, if such request is not in contradiction to the basic principles of the criminal procedure of Latvia.

Section 3. Power of the Criminal Procedure Law in Space

The Criminal Procedure Law shall determine a uniform procedural order in all criminal proceedings that are performed by persons authorised to perform such proceedings for criminal offences existing within the jurisdiction of Latvia.

Section 4. Power of the Criminal Procedure Law in Time

The order of criminal proceedings shall be determined by the criminal procedure legal norm that is in effect at the moment of the performing of the procedural activity.

Section 5. Application of the Law in International Co-operation

The legal norm of a foreign state indicated in a request motivated by the foreign state may be applied in international co-operation without additional examining of the validity thereof.

Chapter 2
Basic Principles of Criminal Procedure

Section 6. Mandatory Nature of Criminal Procedure

The official who is authorised to perform criminal proceedings has a duty to initiate criminal proceedings and to lead such proceedings to the fair regulation of criminal legal relations provided for in the Criminal Law in each case where the reason and grounds for initiating criminal proceedings have become known.

Section 7. Public and Private Prosecution

(1) Criminal proceedings shall be performed in the interests of society independently from the will of the person to whom the harm was inflicted, if this Law does not specify otherwise. Such types of criminal proceedings are public indictment criminal proceedings, in which the public prosecutor on behalf of the State implements the indictment function.

(2) Public prosecution criminal proceedings shall be initiated for the offences provided for in Sections 90, 130 (in cases related to violence in the family), 131, 132, 136, 145, 159, Paragraph One of Section 160, Sections 168, 169, 180, 197, 200, and Paragraph One of Section 260 of the Criminal Law, if a request has been received from the person to whom harm has been inflicted.

(3) Private prosecution criminal proceedings wherein the victim implements the prosecution function shall be performed for the offences provided for in Sections 130 (expect for cases related to violence in the family), 156, 157, and 158 of the Criminal Law.

Section 8. Principle of Equality

The Criminal Procedure Law shall determine a uniform procedural order for all persons involved in criminal proceedings irrespective of the origin, social and financial situation, employment, citizenship, race, nationality, attitude toward religion, sex, education, language, place of residence, and other conditions of such persons.

Section 9. Criminal Procedural Duty

(1) In initiated criminal proceedings, each person has a duty to fulfil the requirements of an authorised official for performing criminal proceedings and to comply with the procedural order specified in the Law.

(2) The disputing of the legality and validity of a procedural requirement shall be performing in accordance with the procedure specified by this Law, yet such disputing does not remove the duty to fulfil such requirement.

(3) The rights to an exception from the execution of the duty specified in Paragraph One of this Section shall be held only by persons for whom immunity from criminal proceedings has been specified.

Section 10. Immunity from Criminal Proceedings

Immunity from criminal proceedings completely or partially frees a person from participation in criminal proceedings, as well as from the provision of evidence and the issuance of documents and objects, and prohibits or restricts the right to perform the criminal prosecution of such person and to apply compulsory measures against such person, as well as the right to enter and perform investigative activities on the premises in the possession of such person.

Section 11. Language to be used in Criminal Proceedings

(1) Criminal proceedings shall take place in the official language.

(2) If a person who has a rights to a defence, a victim and his or her representative, a witness, specialist, expert, auditor, as well as other persons who a person directing the proceedings has involved in criminal proceedings does not speak the official language, such persons have the right to use the language that such persons understand during the performance of procedural actions, and to utilise the assistance of an interpreter free of charge, whose participation shall be ensured by the person directing the proceedings. In pre-trial proceedings, the investigating judge or court shall provide for the participation of an interpreter in the hearing of issues that fall within the jurisdiction of the investigating judge or court.

(3) In issuing procedural documents to a person involved in criminal proceedings who does not understand the official language, such person shall be ensured, in the cases provided for by the Law, a translation of such documents in a language understood by such person.

(4) A person directing the proceedings may perform a separate procedural action in another language by appending a translation of the procedural documents in the official language.

(5) In a criminal proceeding, complaints received in another language shall be translated into the official language only in the case of necessity, which shall be determined by the person directing the proceedings.

[19 January 2006]

Section 12. Guaranteeing of Civil Rights

(1) Criminal proceedings shall be performed in compliance with internationally recognised civil rights and without allowing for the imposition of unjustified criminal procedural duties or excessive intervention in the life of a person.

(2) Civil rights may be restricted only in cases where such restriction is required for public safety reasons, and only in accordance with the procedures specified by this Law according to the character and danger of the criminal offence.

(3) The application of safety measures related to the deprivation of liberty, the infringement of the immunity of publicly inaccessible places, and the confidentiality of correspondence and means of communication shall be permitted only with the consent of the investigating judge.

(4) A person directing the criminal proceedings, a specially authorised public prosecutor, and an investigating judge has a duty to protect the confidentiality of the private life of a person and the commercial confidentiality of a person. Information regarding such confidentiality shall be obtained and utilised only in the case where such information is necessary in order to clarify conditions that are to be proven.

(5) A natural person has the right to request that a criminal case does not include information regarding the private life, commercial activities, and financial situation of such person or the betrothed, spouse, parents, grandparents, children grandchildren, sisters, or brothers (hereinafter – close relatives) of such person, if such information is not necessary for the fair regulation of criminal legal relations.

Section 13. Prohibition of Torture and Debasement

(1) Debasement, blackmail, torture, the threatening of a person with torture or violence, or the use of violence shall not be allowed in criminal proceedings.

(2) If a person resists the performance of separate procedural actions, hinders the progress thereof, or refuses to duly fulfil his or her procedural duties, the compulsory measures provided for in the Law for the ensuring of a concrete procedural action may be applied to such person.

(3) In order to overcome the physical resistance of a person, a performer of procedural actions or, on the basis of his or her invitation, employees of the State police may apply physical strength in exceptional cases, without needlessly inflicting pain on such person or debasing such person.

Section 14. Rights to the Completion of Criminal Proceedings in a Reasonable Term

(1) Each person has the right to the completion of criminal proceedings within a reasonable term, that is, without unjustified delay.

(2) A person directing the proceedings shall choose the simplest type of criminal proceedings that complies with the concrete conditions, and shall not allow for unjustified intervention in the life of a person and unfounded expenditures.

(3) Criminal proceedings wherein a security measure related to the deprivation of liberty has been applied shall have preference, in comparison with other criminal proceedings, in the ensuring of a reasonable term.

(4) Criminal proceedings against an underage person shall have preference, in comparison with similar criminal proceedings against a person of legal age, in the ensuring of a reasonable term.

(5) The inobservance of a reasonable term may be the basis for the termination of proceedings in accordance with the procedures specified by this Law.

Section 15. Rights to the Adjudication of a Matter in Court

Each person has a right to the adjudication of a matter in a fair, objective, and independent court.

Section 16. Rights to the Objective Progress of Criminal Proceedings

(1) Officials who perform criminal proceedings, interpreters, and specialists shall withdraw from participation in criminal proceedings if such persons are personally interested in the result, or if conditions exist that justifiably give persons involved in the criminal proceedings a reason to believe that such interest may exist.

(2) A person who implements assistance of a defence counsel, a victim, the representative of the victim, and an official who is authorised to perform criminal proceedings but is not the person directing the proceedings has the right to raise an objection if the conditions referred to in Paragraph One of this Section exist.

(3) A person directing the proceedings or the officials specified in the Law shall, on the basis of the initiative thereof or on the basis of an objection, suspend the participation of the persons referred to in Paragraph One of this Section in proceedings if such persons have not excused themselves.

Section 17. Separation of Procedural Functions

The function of a control of restrictions of human rights in a pre-trial investigation, and the function of prosecution, defence, and court adjudication in criminal proceedings shall be separate.

Section 18. Equivalence of Procedural Authorisations

This Law determines that persons involved in criminal proceedings have authorisation (rights and duties) that ensures for such persons equivalent actualisation of the tasks and guaranteed rights specified in regulatory enactments.

Section 19. Presumption of Innocence

(1) No person shall be considered guilty until the guilt of such person in the committing of a criminal offence has been determined in accordance with the procedure specified by this Law.

(2) A person who has the right to assistance of a defence counsel shall not need to prove his or her innocence.

(3) All reasonable doubts regarding guilt that it is not able to eliminate shall be evaluated as beneficial for the person who has the right to defence.

Section 20. Rights to Assistance of Counsel

(1) Each person regarding whom an allegation or contention has been expressed that such person has committed a criminal offence has the right to assistance of a defence counsel, that is, the right to know what offence such person is suspected of committing or is being accused of committing, and to choose his or her position of defence.

(2) A person may implement the right to assistance of counsel by him or herself, or invite as a defence counsel, at his or her own choice, a person who may be a defence counsel in accordance with this Law.

(3) The participation of a defence counsel is mandatory in the cases specified in this Law.

(4) If a person may not invite a defence counsel due to his or her financial situation, the State shall ensure assistance of a defence counsel for such person and decide regarding the remuneration of the defence counsel from State resources, completely or partially discharging such person from such payment.

Section 21. Rights to Co-operation

(1) A person who has the right to assistance of a defence counsel may co-operate with an official authorised to perform criminal proceedings in order to promote the regulation of criminal legal relations.

(2) Co-operation may be expressed in the following ways:

1) in the selection of the simplest type of proceedings;

2) in the promotion of the progress of proceedings;

3) in the disclosure of criminal offences committed by other persons;

(3) Co-operation is possible from the moment of the commencement of criminal proceedings until the execution of a sentence.

Section 22. Rights to Compensation regarding Inflicted Harm

A person upon whom harm has been inflicted by a criminal offence shall, taking into account the moral injury, physical suffering, and financial loss thereof, be guaranteed procedural opportunities for the requesting and receipt of moral and financial compensation.

Section 23. Court Adjudication

In criminal cases, court shall be adjudicated by a court, examining and deciding, in hearings, the validity of a charge raised against a person, acquitting innocent persons, or recognising persons as innocent in the committing of a criminal offence and determining the compulsory execution, by State institutions and persons, of a regulation of criminal legal relations that, if necessary, shall be implemented by forced execution.

Section 24. Defence of a Person and Property in the Case of a Threat

(1) A person who is threatened in connection to the execution of the criminal procedural duty thereof has the right to request that a person directing the proceedings carry out the measures provided for by Law for the defence of such person and the property thereof.

(2) In receiving the information referred to in Paragraph One of this Section, a person directing the proceedings shall, depending on the concrete circumstances, decide regarding the necessity to perform one or more of the following measures:

1) the commencement of another criminal proceedings for the investigation of the threat;

2) the selection of a corresponding security measure for the persons in the interest of whom the threat has taken place;

3) the institution of the determination of special procedural protection for the person who has been threatened;

4) the assigning of law enforcement institutions the task of performing protection of the person or the property thereof.

(3) If the measures referred to in Paragraph Two of this Section are not able to prevent an actual threat to the life of a person, a person directing the proceedings shall refuse the utilisation of the evidence that is the case of the threat.

Section 25. Inadmissibility of Double Penalising (*ne bis in idem*)

(1) A person may be tried and punished for one and the same criminal offence only the one time.

(2) Repeated adjudication is not:

1) the repeated trial of a criminal case in a court of any instance, if the adjudication of the previous court has been revoked, in accordance with the appeal procedures specified in the Law, before the entering into effect thereof;

2) the new trial of a criminal case on the basis of newly disclosed circumstances in accordance with the procedures and in the cases specified by the Law.

(3) In the cases provided for in the Law, a criminal case may be repeatedly adjudicated, with a judgment that has entered into effect, for the improvement of the condition of a convicted person.

(4) Within the meaning of this Section, penalising is the determination of a penalty provided for in the Criminal Law, a compulsory measure, or the determination of a mandatory duty in an adjudication with which a concrete criminal proceeding is terminated.

(5) If in penalising a person it is determined that an administrative penalty has been applied to such person regarding the same offence, such administrative penalty shall be revoked and taken into account in determining a criminal penalty.

(6) A person may not be tried and punished in Latvia if such person has been convicted or acquitted for the same offence in a foreign state with which Latvia has an agreement regarding mutual recognition of criminal judgments or an agreement regarding the observance of the principles of *ne bis in idem*. If a person has been convicted in a foreign state, the part of the sentence that has already been served is to be included in the sentence in the case of repeat adjudication.

(7) The principles of *ne bis in idem* is not violated if in penalising a legal person, a natural person is also penalised who has committed a criminal offence in the interest of the legal person, operating individually or as a member of a collegial authority of the relevant legal person, based on the right to represent the legal person, operate under the order thereof, or take decisions on behalf of the legal person, or also in implementing control within the framework of the legal person or in the service of the legal person.

Division One
Persons Involved in Criminal Proceedings

Chapter 3
Officials who Perform Criminal Proceedings

Section 26. Authorisation to Perform Criminal Proceedings

(1) The authorisation to perform criminal proceedings on behalf of the State shall be held only by officials of the institutions specified in this Law who have been granted such authorisation in connection with an office to be held or an order of the heads of institutions.

(2) The following shall have authorisation in a concrete criminal proceeding:

1) the person directing the proceedings;

2) a member of the investigative group;

3) the supervising public prosecutor;

4) an official authorised to perform criminal proceedings who executes the task of the person directing the proceedings, a member of the investigative group, or the court to conduct procedural actions (hereinafter – executor of procedural tasks);

5) an expert from an expert-examination institution;

6) an expert who does not work at an expert-examination institution, if the person directing the criminal proceedings has assigned him or her to perform an expert-examination;

7) an auditor on the assignment of the person directing the proceedings;

8) the direct supervisor of an investigator;

9) the senior public prosecutor;

10) the investigating judge;

11) the upholder of the indictment.

(3) A judge and public prosecutor, as well as court, prosecutorial, and investigative institutions and the heads of the divisions thereof shall have authorisation in the deciding of organisational matters of proceedings, complaints, and recusals.

(4) Officials of the authorities of the European Union (Communities) shall be authorised to perform criminal proceedings in the cases specified in the legal norms of the European Union (Communities).

Section 27. Person Directing the Proceedings

(1) A person directing the proceedings shall be the official or court that leads the criminal proceedings at the concrete moment. A person directing the proceedings shall:

1) organise the progress of criminal proceedings and the record-keeping therein;

2) take decision regarding the direction of the criminal proceedings;

3) implement State authorisation in the relevant step or stage of the criminal proceedings by oneself or by involving another official;

4) request that each person fulfils a criminal procedural duty and complies with procedural order;

5) ensure the opportunity for persons involved in criminal proceedings to implement the rights specified in the Law.

(2) A person directing the proceedings shall be:

1) an investigator – in an investigation;

2) a public prosecutor – in a criminal prosecution;

3) a judge who leads the adjudication – in preparing a case for trial, as well as from the moment when a adjudication is announced with which legal proceedings are completed in the court of the relevant instance, until the transferral of the case to the next court instance or until the execution of the adjudication;

4) the composition of a court – during a trial.

(3) An investigative group may be established for the performing of pre-trial criminal proceedings whose leader is the relevant person directing the proceedings.

Section 28. Investigator

An investigator shall be an official of an investigative institution who is authorised with an order of the head of the investigative institution to perform an investigation in criminal proceedings.

Section 29. Duties and Rights of an Investigator as a Person Directing the Proceedings

(1) An investigator has a duty:

1) to examine information, which indicate the possible commitment of a criminal offence, and to initiate criminal proceedings as soon as a reason and grounds specified in the Law have been determined or to refuse to initiate criminal proceedings;

2) to perform investigative actions in order to ascertain whether a criminal offence has taken place, who committed such an offence, whether a person must be held criminally liable regarding such offence, and to ascertain such person and acquire evidence that gives a basis for holding such person criminally liable;

3) to perform all measures provided for in the Law for ensuring compensation for damages;

4) to select a type of criminal proceedings that ensures a fair regulation of criminal legal relations without unjustified intervention in the life of a person and unfound expenditures;

5) to fulfil the orders of the direct supervisor, supervising public prosecutor, or higher-ranking public prosecutor thereof or the injunctions of the investigating judge.

(2) An investigator has the right:

1) to take any procedural decision in accordance with the procedures specified by Law and to perform any procedural action or assign the performing thereof to a member of an investigative group or the executor of procedural tasks;

2) to propose for the supervising public prosecutor to decide the matter regarding the initiation of criminal prosecution;

3) to appeal the instructions of the direct supervisor thereof to the supervising public prosecutor;

4) to appeal the decisions and instructions of the supervising public prosecutor to a higher-ranking public prosecutor;

5) to appeal the instructions of a higher-ranking public prosecutor to the next higher-ranking public prosecutor;

6) to appeal the decision of an investigating judge to the chief judge.

[28 September 2005; 19 January 2006]

Section 30. Member of an Investigative Group

(1) A member of an investigative group shall be a public prosecutor or an official of an investigative institution authorised to perform criminal proceedings who has been included in the composition of the investigative group with an order of the direct supervisor of an investigator or a higher-ranking public prosecutor.

(2) A member of an investigative group has the right to perform investigative actions, and take procedural decisions, on the assignment of a person directing the proceedings and within a specific framework.

(3) A member of an investigative group may appeal an assignment of a person directing the proceedings to a supervising public prosecutor without suspending the execution thereof.

(4) A member of an investigative group shall appeal the instructions of the direct supervisor of an investigator and a supervising public prosecutor, as well as shall raise objection, with the intermediation of a person directing the proceedings.

(5) The appeal of assignments and instructions shall be performed in writing.

Section 31. Direct Supervisor of an Investigator

(1) The direct supervisor of an investigator shall be the head of an investigative institution or a division thereof, or his or her deputy, who has been assigned, in accordance with an allocation of duties or an individual order, to control the performance of concrete criminal proceedings during an investigation.

(2) The direct supervisor of an investigator has a duty:

1) to ensure that the officials subordinated thereto commence criminal proceedings in a timely manner;

2) to organise the work of executors of procedural tasks;

3) to confer procedural authorisation to the necessary circle of officials subordinated thereto, in order to ensure that the performance of criminal proceedings is targeted and without unjustified delay;

4) to give instructions regarding the direction of an investigation and the performance of an investigative action, if a person directing the proceedings does not ensure a targeted investigation and allows for unjustified intervention in the life of a person or a delay.

(3) The direct supervisor of an investigator has a duty:

1) to become acquainted with the materials of the criminal proceedings in the record-keeping of the official subordinated thereto;

2) to take organisational decisions significant to the proceedings, that is, to determine criteria for the distribution of criminal proceedings, to transfer criminal proceedings to another person directing the proceedings, to establish an investigative group, and to assume leadership of criminal proceedings;

3) to participate in the procedural actions that are carried out by a performer of activities or a member of an investigative group;

4) to carry out an investigative action, informing a person directing the proceedings beforehand regarding such carrying out of the investigative action;

5) to revoke decisions taken unjustifiably and unlawfully by an official subordinated thereto.

Section 32. Executor of Procedural Tasks

(1) An executor of procedural tasks shall be an official of an investigative institution, or a public prosecutor, who a person directing the proceedings has been assigned to carry out one or more investigative actions, without including him or her in the composition of the investigative group.

(2) An executor of procedural tasks shall be liable for the qualitative execution of an assigned investigative action, and he or she has a duty to inform a person directing the

proceedings regarding all facts that may be significant to the legal and fair completion of criminal proceedings.

Section 33. Expert of an Expert-examination Institution

(1) An expert of an expert-examination institution has authorisation to perform criminal proceedings if he or he has acquired the right to perform a specific types of expert-examination and has received a task of a person directing the proceedings.

(2) An expert on the assignment of a person directing the proceedings shall:

1) conduct an expert-examination, if a study has to be conducted in order to obtain information necessary for evidence using special knowledge, devices, and substances;

2) perform inspections of the site of the event or other sites, the corpse, the terrain, and objects;

3) conduct an examination of persons;

4) remove samples for comparative research;

5) participate in the performance of other investigative actions;

6) utilise special knowledge for the discovery and removal of traces and other items of the criminal offence.

(3) An expert has the right:

1) to familiarise him or herself with the materials of the criminal case;

2) to request from a person directing the proceedings the additional information and materials necessary for the performing of an expert-examination;

3) to refuse to perform an expert-examination (give a conclusion), if the submitted materials are not sufficient or the questions posed exceed the competence thereof;

4) to receive compensation for expenses that have come about in connection with arrival on the basis of the invitation of a person directing the proceedings.

(4) An expert has the right to perform only the expert-examination specified in a decision and to provide answers to questions posed. If an expert is of the conclusion that he or she may acquire information, utilising special knowledge, that is important to the criminal proceedings, and regarding which a question has not been posed, he or she shall inform the person directing the proceedings regarding such acquisition in writing.

(5) An expert shall perform his or her duties:

1) on the basis of an instruction given by a person directing the proceedings that has been recorded in the account of the investigative actions in which the expert is a participant.

2) in accordance with a procedural decision regarding the determination of an expert-examination.

Section 34. Invited Expert

(1) A person directing the proceedings may invite, and assign with a decision, a person to perform an expert-examination who is not an expert of an expert-examination

institution, but whose knowledge and practical experience is sufficient for the performance of the expert-examination.

(2) An invited expert has the rights indicated in Paragraphs Three and Four of Section 33 of this Law.

Section 35. Auditor

(1) An auditor shall have the authorisation to perform criminal proceedings if he or she has obtained the relevant qualification, obtained a certificate, in accordance with the procedure specified by Law, for the performing of audits, and has received a concrete task specified in a decision of the person directing the proceedings or recorded in the account of the investigative action.

(2) On the assignment of a person directing the proceedings, an auditor shall:

1) take inventory;

2) perform the inspection and removal of documents;

3) inspect goods, products, and raw materials in the amount necessary for the performing of an audit;

4) provide a description of economic and financial activity in an account, if it is possible to give such a description without the performing of an audit;

5) question witnesses or participate in the interrogation thereof;

6) perform an audit in the amount co-ordinated with a person directing the proceedings;

7) familiarise interested persons with audit materials;

8) provide an auditor assessment regarding the objections of interested persons.

Section 36. Public Prosecutor in Criminal Proceedings

(1) A public prosecutor in criminal proceedings shall realise investigation supervision, investigation, criminal prosecution, State prosecution and other functions specified in this Law.

(2) A public prosecutor shall decide, in the cases specified by the Law, the question regarding the commencement of criminal proceedings, and shall conduct investigations him or herself.

[19 January 2006]

Section 37. Public Prosecutor Supervising Investigation

(1) The public prosecutor who must perform supervision of an investigation in accordance with a distribution of duties specified in a prosecutorial institution, or an order in concrete criminal proceedings, shall be the supervising public prosecutor.

(2) During an investigation, a supervising public prosecutor has a duty:

1) to give instructions regarding the selection of the type of proceedings, the direction of an investigation and the performance of investigative actions, if a person directing the

proceedings does not ensure a targeted investigation and allows for unjustified intervention in the life of a person or a delay.

2) to request that the direct supervisor of an investigator replace a person directing the proceedings, or make changes in the investigative group, if assigned instructions are not fulfilled or if procedural violations are allowed that threaten the progress of criminal proceedings;

3) *[28 September 2005]*;

4) to participate in the performance of the procedural actions that are directed at co-operation with the person who has the right to defence, as well as to participate in the selection of simpler proceedings;

5) to examine complaints regarding the actions and decision of a person directing the proceedings, a member of the investigative group, the direct supervisor of an investigator, and an executor of procedural tasks;

6) to decide rejections that have been submitted to the person directing the proceedings, the member of the investigative group, the direct supervisor of the investigator, an expert, auditor, or interpreter;

7) to take over the direction of criminal proceedings without delay when sufficient evidence for the fair regulation of criminal legal relations has been obtained in an investigation.

(3) The public prosecutor supervising an investigation has the right to:

1) take a decision regarding the initiation of criminal proceedings and the transfer thereof to an investigative institution;

2) request the execution of provided instructions;

3) carry out investigative actions, informing a person directing the proceedings beforehand regarding such carrying out of investigative actions;

4) familiarise him or herself at any time regarding the materials of the criminal proceedings;

5) revoke the decisions of the person directing the proceedings and a member of the investigative group;

6) submit a proposal to a more senior prosecutor regarding the determination of the direct supervisor of another investigator in concrete criminal proceedings, or the transfer of criminal proceedings to another investigative institution;

7) participate in a meeting wherein the investigating judge decides regarding the granting of permission to apply compulsory measures and to perform special investigative actions.

[28 September 2005]

Section 38. Public Prosecutor as a Person Directing the Proceedings

(1) A supervising public prosecutor acquires the status of a person directing the proceedings from the moment when he or she takes over the leadership of criminal proceedings and decides regarding the initiation of criminal proceedings:

1) on the basis of a proposal of the person directing the proceedings of an investigation;

2) on the basis of an instruction of a higher-ranking public prosecutor;

3) on the basis of his or her own initiative.

(2) A higher-ranking public prosecutor may impose the duties of a person directing the proceedings on another public prosecutor.

(3) In exceptional cases, the Prosecutor-General, the Criminal Legal Department of the Office of the Prosecutor-General, or the chief public prosecutor of a court district may determine a public prosecutor as a person directing the proceedings in the investigative stage.

Section 39. Duties and Rights of a Public Prosecutor – Person Directing the Proceedings

(1) A public prosecutor has the following duties as a person directing the proceedings:

1) to not permit unjustified delay and to initiate criminal prosecution in the term specified in the Law;

2) withdraw from criminal prosecution and termination criminal proceedings if the prerequisites provided for such withdrawal or termination exist in the Law;

3) determine the criminal cases to be transferred to a court, and the aggregate of materials of an archive file;

4) issue to a person who has the right to the assistance of a defence counsel copies or true copies of the materials of the criminal case to be transferred to a court (hereinafter – copies) or to acquaint such person according to the procedures specified by law with the materials of the criminal case to be transferred to a court;

5) issue to a victim copies of materials provided for in the Law;

6) decide regarding submitted applications;

7) submit to a court an agreement that was entered into with the accused regarding the admission of guilt and a penalty;

8) take a decision regarding the transferring of a criminal case to a court, and submit the criminal case to the court;

9) dismiss criminal proceedings if grounds specified in the Law have been determined;

10) submit a criminal case for trial in accordance with the special procedures of proceedings.

(2) A public prosecutor has the following rights in criminal prosecution:

1) to terminate criminal prosecution and to determine additional investigation;

2) to take any procedural decision in accordance with the procedures specified by Law and to perform any procedural action or assign the performing thereof to a member of an investigative group or an executor of procedural tasks;

3) to dismiss criminal proceedings, applying the injunction of a public prosecutor regarding a penalty;

4) to prepare an draft agreement;

5) to submit proposals for the recognition of specified facts as proven without an examination of evidence in a court.

(3) If a preliminary adjudication of the European Court of Justice regarding the interpretation or validity of the legal norms of the European Union (Communities) is necessary for the acceptance of a procedural decision, a public prosecutor may propose that the Prosecutor-General send the uncertain matter to the European Court of Justice.

[19 January 2006]

Section 40. Investigating Judge

An investigating judge shall be the judge whom the chairperson of the district (city) court has assigned, for a specific term in the cases and in accordance with the procedure specified by Law, the control of the observance of human rights in criminal proceedings.

Section 41. Duties and Rights of an Investigating Judge

(1) An investigating judge has the following duties during an investigation and criminal prosecution:

1) to decide regarding the application of compulsory measures in the cases provided for by the Law;

2) to decide regarding the applications of a suspect or an accused regarding the amending or revoking of the security measures thereof that have been applied with a decision of the investigating judge;

3) to examine complaints, in the cases provided for by Law, regarding a security measure applied by a person directing the proceedings;

4) to decide, in the cases provided for by Law, regarding the proposal of a person directing the proceedings to perform a special investigative action;

5) to decide regarding complaints in relation to an unjustified violation during an interrogation of a private secret;

6) to decide regarding complaints in relation to an unjustified violation during criminal proceedings of a confidentiality that is protected by Law;

7) to decide regarding the application of a person who implements the right to assistance of a defence counsel, or the application of a victim, regarding the appending of the materials of an archive file to a criminal case to be submitted to a court;

8) to decide regarding the application of a person who has the right to assistance of a defence counsel regarding the appending of materials of special investigative actions that are not appended to a criminal case (primary documents) to a criminal case to be transferred to a court;

9) to decide regarding a recusal that has been submitted to a higher-ranking public prosecutor, and to assign the chief public prosecutor of the one-level-higher office of the public prosecutor to determine another higher-ranking public prosecutor;

10) to decide regarding the request of a person who has the right to assistance of a defence counsel to give a discharge of payment regarding the utilisation of the assistance of an advocate.

(2) From a court of first instance to the commencement of the adjudication of a case, an investigating judge has a duty to decide regarding the following:

1) the application of an accused in relation to the amending or revocation of security measures;

2) the proposal of a public prosecutor in relation to the selection or amendment of a security measure;

(3) An investigating judge shall not be permitted to replace a person directing the proceedings and a supervising public prosecutor in pre-trial criminal proceedings by giving instructions regarding the direction of an investigation and the performance of investigative actions.

(4) An investigating judge has the following rights during an investigation and criminal prosecution:

1) to familiarise him or herself with all materials in criminal proceedings wherein a proposal of a person directing the proceedings, a complaint or application of a person, or a submitted recusal have been submitted;

2) to request additional information from a person directing the proceedings, and to determine terms in criminal proceedings wherein special investigative actions are being conducted or a security measure related to a deprivation of liberty is applied;

3) to apply a procedural sanction regarding the non-execution of duties or the non-observance of procedures during pre-trial criminal proceedings;

4) to propose that officials who are authorised to perform criminal proceedings are penalised regarding infringements of civil rights that have been permitted as a result of an actualisation of criminal procedural authorisation.

(5) An investigating judge may also have other rights and duties specially specified in this Law.

[19 January 2006]

Section 42. Maintainer of State Prosecution

(1) A state prosecution shall be maintained in a court of first instance by the public prosecutor who has transferred the criminal case to the court. A higher-ranking public prosecutor may assign the maintenance of prosecution to another public prosecutor.

(2) A state public prosecution shall be maintained in a court of appeals to the extent possible by the same public prosecutor who maintained such prosecution in a court of first instance. A higher-ranking public prosecutor may assign the maintenance of the state prosecution to another public prosecutor.

(3) In a cassation instance, a public prosecutor shall express a position regarding the legality and justification of a court adjudication.

Section 43. Authorisation of a Maintainer of State Prosecution

(1) In maintaining prosecution in a court of any instance, a public prosecutor has the following duties and rights:

1) to refuse the maintenance of prosecution with the consent of a higher-ranking public prosecutor, if there exist reasonable doubts regarding the guilt of the accused;

2) to submit a recusation, if there exist grounds specified by the Law;

3) to express him or herself regarding each matter to be decided in court;

4) to direct an examination of evidence of the prosecution, and to participate in an examination of other evidence;

5) to request an interval for the submission of additional evidence or for the bringing of a new charge;

6) to submit requests;

7) to speak in court debates;

8) to familiarise him or herself with the minutes of a court session, the complete text of an adjudication, and complaints submitted by persons;

9) to appeal court adjudications, if there are grounds to do so.

(2) A public prosecutor shall have the authorisations indicated in Paragraph One of this Section in all criminal proceedings regardless of the special features of the progress of proceedings in cases of separate categories.

Section 44. Maintainer of Private Prosecution

(1) In private prosecution cases, the victim or his or her representative shall maintain prosecution in court.

(2) In a court session, a maintainer of private prosecution shall have the authorisations of a maintainer of state prosecution specified in the Law.

Section 45. Higher-ranking Public Prosecutor in Criminal Proceedings

(1) A higher-ranking public prosecutor shall control, in accordance with the procedure specified by Law, how a public prosecutor implements his or her authorisation.

(2) The following shall fulfil the duties of a higher-ranking public prosecutor:

1) the chief public prosecutor of a district (city), if the functions of a public prosecutor specified in this Law are performed by a public prosecutor of the relevant office of the public prosecutor;

2) the chief public prosecutor of a court district, if the functions of a public prosecutor specified in this Law are performed by a public prosecutor of the relevant office of the public prosecutor or a chief public prosecutor of the district level, and also, on the basis of his or her own initiative, if such functions are performed by the district (city) office of the public prosecutor or a public prosecutor of an office of the public prosecutor of a status equivalent thereto;

3) the Chief Public Prosecutor of the Office of the Prosecutor General, if the functions of a public prosecutor specified in this Law are performed by the Chief Public Prosecutor or a public prosecutor of the Division of the Office of the Prosecutor General,

a public prosecutor of the Department of the Office of the Prosecutor General, or the Chief Public Prosecutor of a court district, as well as on the basis of the initiative thereof;

4) the Prosecutor General, if the functions of a public prosecutor specified in this Law are performed by the Chief Public Prosecutor of the Department of the Office of the Prosecutor General;

5) any public prosecutor, if he or she has been authorised in concrete criminal proceedings by the Prosecutor General or the Chief Public Prosecutor of the Office of the Prosecutor General.

(3) *[19 January 2006]*

[19 January 2006]

Section 46. Duties and Rights of a Higher-ranking Public Prosecutor

(1) A higher-ranking public prosecutor has the following duties:

1) to decide regarding complaints in relation to the decisions and actions of a supervising public prosecutor and a public prosecutor – person directing the proceedings;

2) to decide regarding the withdrawal of a supervising public prosecutor and public prosecutor – person directing the proceedings from participation in criminal proceedings or regarding the recusations submitted thereto;

3) to decide regarding the proposal of a supervising public prosecutor to replace the director supervisor of an investigator or an investigative institution;

4) to replace a supervising public prosecutor or public prosecutor – person directing the proceedings, if supervision and criminal prosecution is not completely ensured;

5) to establish an investigative group, if the amount of work jeopardises the completion of criminal proceedings in a reasonable term;

6) to replace a maintainer of state prosecution, if the maintenance of prosecution is not completely ensured;

7) to decide whether withdrawal from prosecution is justified and lawful.

(2) A higher-ranking public prosecutor has the following rights:

1) to familiarise him or herself with all materials in criminal proceedings wherein he or she fulfils the functions of a higher-ranking public prosecutor;

2) to determine a supervising public prosecutor, if it is necessary to deviate from the principles of a distribution of criminal proceedings that were previously approved;

3) assign a public prosecutor the execution of the functions of a supervising public prosecutor or a public prosecutor – person directing the proceedings, or undertake such functions him or herself;

4) to request that the head of an investigative institution to whom the direct supervisor of an investigator is administratively subordinated in concrete criminal proceedings determine another supervisor in such proceedings;

5) to assign another investigative institution to perform an investigation in criminal proceedings;

6) to give instructions to an investigator, a supervising public prosecutor or a public prosecutor – person directing the proceedings regarding the selection of the type of proceedings, the direction of an investigation, and the performance of investigative actions;

7) to revoke the decisions of an investigator, a member of an investigative group, and a less senior public prosecutor;

8) to give instructions to a maintainer of state prosecution regarding the tactic for examining evidence and for submitting additional sources of evidence;

9) to decide on the proposal of a maintainer of state prosecution to withdrawn from the maintenance of prosecution in court, approving such decision or assigning another public prosecutor subordinated thereto to maintain the state prosecution, or to undertake such prosecution him or herself.

[19 January 2006]

Section 47. Judge as a Person Directing the Proceedings in the Preparation of a Criminal Case for Trial

(1) In preparing a case for trial, a judge shall:

1) ascertain the jurisdiction of such case for the court;

2) decide the matter regarding the possibility for the trial of such case;

3) determine the time and place for the trial, and the type of trial;

4) assign the court chancellery to perform preparatory activities.

(2) During preparation, a judge shall not evaluate evidence and the legal qualification of an offence, and shall not take decisions regarding the settlement of criminal legal relations.

Section 48. Court as a Person Directing the Proceedings

(1) In examining a criminal case, a court shall have the authorisation of a person directing the proceedings in the leading of criminal proceedings and in the ensuring of procedural order, as well as the exclusive right to administer justice.

(2) A court shall do the following to fulfil the function thereof:

1) to request that each person fulfil a criminal procedural duty and comply with procedures during a court session;

2) to apply procedural sanctions;

3) to participate in an examination of evidence without interfering in the maintenance of prosecution and the actualisation of defence;

4) to decide received applications, requests, and recusations;

5) to examine and hear a case, and to announce a adjudication;

6) to perform measures in order to hold liable officials who perform criminal proceedings and implement the authorisation thereof fraudulently.

(3) A court shall participate in international co-operation in the criminal legal field in accordance with the procedures specified by this Law.

Section 49. Judge as a Person Directing the Proceedings after the Adjudication of a Case and the Acceptance of an Adjudication

After the adjudication of a case and the acceptance of an adjudication, and until the transferral of such adjudication for execution or the sending thereof to a court of the next instance, a judge shall:

1) ensure the availability on the specified day of the minutes of the court sitting and the adjudication to all persons provided for in the Law;

2) assign the sending of the criminal case together with submitted complaints to a court of the next instance;

3) convene the composition of the court in order to decide on unsatisfied objections appended to the minutes of the court session;

4) take a decision regarding the transferral of the adjudication of the court for execution and to assign the performance of the necessary activities for the execution of such decision;

5) convene the composition of the court in order to decide matters related to the execution of the adjudication of the court.

Chapter 4
Conditions that Prohibit the Performance of Criminal Proceedings

Section 50. Inadmissibility of a Conflict of Interests in Criminal Proceedings

(1) A person to be registered in a Criminal Proceedings Register shall not undertake authorisation to perform criminal proceedings if by doing so such person comes into a conflict of interests, that is, if the personal interests of such person do not match the purpose of the criminal proceedings either directly or indirectly, or if conditions exist that justifiably give the person involved in the criminal proceedings a reason to allow for such interest.

(2) A conflict of interest situation shall not influence the authorisation of the victim as a maintainer of private prosecution.

(3) The persons referred to in Paragraph One of this Section shall refuse the performance of criminal proceedings as soon as a conflict of interests is discovered.

(4) Persons who perform criminal proceedings have a duty to achieve the exclusion of a person who has a conflict of interests from criminal proceedings by taking a decision within the framework of the competence thereof or by submitting a recusation.

Section 51. Conclusive Conditions of a Conflict of Interests

The existence of a conflict of interests shall be recognised without any clarification of additional conditions if a person to be registered in a Register of Criminal Proceedings:

1) is in a relation of kinship to the third degree, a relation of affinity to the second degree, or is married to the person who has a right to assistance of a defence counsel, or with the victim;

2) receives, or if the spouse, children, or parents thereof receive income from the person who has the right to assistance of a defence counsel, or from the victim;

3) is related to a common household with the person who has the right to assistance of a defence counsel, or with the victim;

4) has an explicit conflict of interests with the person who has the right to assistance of a defence counsel, or with the victim;

5) is a witness or victim in such proceedings, or the person in such proceedings who has the right to assistance of a defence counsel, or has performed assistance of counsel or representation of the victim.

Section 52. Conflict of Interest Conditions for Individual Persons Involved in Criminal Proceedings

(1) Persons who are mutually connected by marriage, a common household, or kinship of the first degree shall not be involved in one pre-trial criminal proceedings if such persons are the following in the concrete criminal proceedings:

1) the supervising public prosecutor or the person directing the proceedings in an investigation;

2) the higher-ranking public prosecutor, person directing the proceedings, or supervising public prosecutor;

3) the investigating judge, person directing the proceedings, or supervising or higher-ranking public prosecutor;

(2) The person who has the right to adjudicate a recusation shall decide a matter regarding the termination of the conflict of interests referred to in Paragraph One of this Section.

(3) The investigating judge shall not be the person who has been the person directing the proceedings or supervising public prosecutor in the same criminal proceedings.

(4) A judge shall not participate in the adjudication of a case if he or she:

1) has participated in the criminal proceedings in any status;

2) is in kinship to the third degree, affinity to the second degree, or married to another judge involved in the adjudication, the maintainer of prosecution, or the public prosecutor who has transferred the criminal case for trial, or if he or she has a common household with the referred to judge, maintainer of prosecution, or public prosecutor.

Section 53. Grounds for a Recusation of an Expert and Auditor

In addition to the conditions referred to in Sections 50 and 51 of this Law, the grounds for a recusation of an expert and an auditor may also be insufficient professional readiness for the performance of the relevant duties.

Section 54. Recusal of Oneself from the Performance of Criminal Proceedings

(1) In a conflict of interest situation, a report regarding the recusal of oneself from the performance of criminal proceedings shall be submitted by:

1) a member of an investigative group, an expert, and an auditor – to a person directing the proceedings;

2) a person directing the proceedings in an investigation and the direct supervisor of an investigator – to a supervising public prosecutor;

3) a supervising public prosecutor, person directing the proceedings in criminal proceedings, or a maintainer of state prosecution – to a higher-ranking public prosecutor;

4) a more public senior prosecutor – to the next higher-ranking public prosecutor;

5) an investigating judge – to the chief judge;

6) a judge until the initiation of a trial – to the chief judge;

7) a judge, in adjudicating a criminal case – to the composition of the court.

(2) An official who has received a report shall ensure the replacement of the resigned person, or shall recognise the resignation as unfounded and assign the continuation of the performance of criminal proceedings.

Section 55. Submission of Recusation

(1) A person who performs defence, a victim, or a person authorised to perform proceedings, if such person has certain conditions that prohibit an official from performance of the concrete criminal proceedings, shall submit the recusation of such person to the persons referred to in Paragraph one of Section 54 of this Law who have the right to decide regarding the recusation.

(2) In pre-trial criminal proceedings and the adjudication of a case, a recusation shall be submitted in writing up to the initiation of a trial, but orally during a court session, recording such recusation in the minutes of the session.

(3) A recusation may not be submitted more than once on the same grounds.

(4) A submitted recusation shall not be motivated with the actions of a person in the concrete criminal proceedings. Actions shall be appealed in accordance with the procedures specified by Law.

Section 56. Taking of a Decision regarding a Submitted Recusation

(1) An examination of the motives for recusation shall be initiated without delay. A decision shall be taken if the grounds for recusation have been approved or if conviction has been acquired that the grounds for recusation do not exist.

(2) An explanation shall be received in all cases from the person for whom a recusation has been submitted.

(3) In exceptional cases, a person may be relieved from the execution of duties until the taking of a decision.

Section 57. Decision regarding Recusation or a Refusal to Reject an Appeal

(1) A decision regarding recusation, or a refusal to reject, taken outside a court session may be appealed within a term of 10 days:

1) a decision of a person directing the proceedings in an investigation – to a supervising public prosecutor;

2) a decision of a supervising public prosecutor – to a higher-ranking public prosecutor;

3) a decision of a higher-ranking public prosecutor – to an investigating judge; and

4) a decision of an investigating judge – to the chief judge;

5) *[19 January 2006]*

(2) A decision taken during a court session shall not be appealed.

(3) A decision of the persons referred to in Paragraph one of this Section is final and shall not be appealed.

[19 January 2006]

Section 58. Consequences of Failing to Prevent a Conflict of Interests

(1) A person shall be held liable as specified by the Law if a conflict of interests is not knowingly prevented, especially if conditions exist that in themselves exclude the participation of the person in criminal proceedings.

(2) The determination of the conditions referred to in Paragraph one of this Section shall be grounds for the revoking of a decision taken by the relevant person and for the doubting of the admissibility of the acquired evidence.

Chapter 5
Persons who Implement Assistance of Counsel

Section 59. Grounds for Performing Defence

(1) Grounds for performing defence shall be an allegation or contention expressed in writing in accordance with the procedures specified by this Law by an official authorised for the performance of criminal proceedings that a person has committed a criminal offence.

(2) Depending on acquired evidence, allegations shall be divided in the following manner:

1) the actual possibility exists that the person has committed the criminal offence to be investigated (criminal proceedings against the person may be initiated);

2) individual facts provide the basis for believing that the such person has committed the criminal offence (the person may be detained);

3) the totality of evidence provides a basis for the allegation that such person has most likely committed the criminal offence to be investigated (person may be a suspect);

4) the totality of evidence provides a basis for the public prosecutor – perform of proceedings to believe that precisely such person has committed a concrete criminal offence (person may be prosecuted);

5) the public prosecutor – person directing the proceedings does not doubt that he or she will be able to convince the court with the existing evidence that reasonable doubts

do not exist regarding the fact that precisely such person has committed a concrete criminal offence.

(3) An allegation shall achieve the form of a contention if:

1) a person who has the right to defence certifies, in accordance with the procedures specified by Law, that the allegation of a public prosecutor is correct, and both affirm that the person has committed a concrete criminal offence;

2) a court, in evaluating evidence, determines that a person has committed a concrete criminal offence.

(4) For a legal person, grounds for performing defence shall be an allegation expressed by a public prosecutor in accordance with the procedures specified by this Law that a natural person has committed a criminal offence in the interests of precisely such legal person.

(5) The right to assistance of a defence counsel shall be terminated with the moment of the entering into effect of an expression of a joint contention or a court adjudication, if the special conditions specified in the Law that give the right to doubt such contention or adjudication do not exist.

Section 60. Persons who Implement Defence

(1) A person who has the right to assistance of a defence counsel shall implement his or her procedural defence, that is, a person:

1) regarding whom the allegation or contention referred to in Section 59 of this Law has been expressed;

2) against whom proceedings are taking place for the determination of compulsory measures of a medical nature;

3) against whom criminal proceedings have been terminated for non-exonerating reasons;

4) against whom criminal proceedings have been terminated in connection with the existence of conditions that exclude criminal liability, if such person disputes his or her own actions provided for in the Criminal Law.

(2) The following also implement the rights to assistance of a defence counsel of a person entitled to procedural defence:

1) defence counsel;

2) a representative;

(3) If the allegation or contention referred to in Section 59 of this Law has been expressed regarding a natural person who operates in the interests of a legal person, such legal person shall implement its procedural rights to assistance of a defence counsel with the assistance of a representative.

Section 61. Person against whom Criminal Proceedings have been Initiated

(1) If the actual possibility exists that a concrete person has committed a criminal offence to be investigated, criminal proceedings shall be initiated against such person. If in initiating proceedings there is already a basis for the expression of the referred to

assumption, then the concrete person shall be indicated in the decision regarding the initiation of criminal proceedings.

(2) If in the initiated criminal proceedings information is obtained, that it is possible that the concrete person has committed the criminal offence under investigation, such person shall acquire the status of a person against whom criminal proceedings have been initiated.

(3) From the moment when the person referred to in Paragraphs one and two of this Section is involved in the performance of procedural activities, or the person directing the proceedings has publicly made known information regarding the initiation of criminal proceedings against such person, such person shall acquire procedural rights to defence.

(4) A person against whom criminal proceedings have been initiated shall have the rights specified in Section 66, Paragraph one, Clauses 2, 3, 6, 7, 12, 13, 15, 17, 18 and 20, and the duties specified in Section 67, Paragraph one, Clauses 1, 2, 5 and 6 of this Law. A security measure shall not be applied to such persons, except for the duty to notify an address for receiving consignments.

(5) From the moment indicated in Paragraph three of this Section, a person has the right to the completion of criminal proceedings in a reasonable term.

(6) During the term of the conducting of procedural activities, a person against whom criminal proceedings have been initiated shall not be photographed, filmed, or recorded in any other way with technical means for the purpose of using the obtained materials in the mass media without the consent of such person.

[19 January 2006]

Section 62. Detained Person

(1) A detained person shall be a person who is temporarily detained, in accordance with the procedures specified by Law, because separate facts provide a basis to believe that such person has committed a criminal offence.

(2) A person shall be acquire the status of detained person at the moment of actual arrest.

(3) A person shall lose the status of detained person if:

1) criminal proceedings are terminated as a whole or against the particular person;

2) the person is recognised as a suspect or accused; or

3) the person is released from a temporary place of detention and has not been recognised as a suspect or accused. In such case the relevant person shall acquire the status of a person against whom criminal proceedings have been commenced.

[17 May 2007]

Section 63. Rights of a Detained Person

(1) A detained person has the right:

1) to invite a defence counsel and enter into an agreement with him or her without delay or to utilise legal assistance ensured by the State if he or she with his or her own funds is unable to enter into an agreement with a defence counsel. A detained person has

the right to receive from a person directing the proceedings a list of advocates practising in the relevant court region, as well as to invite a defence counsel by telephone free of charge;

2) to request that a relative, educational institution, or employer close to him or her is notified regarding the detention;

3) to receive a copy of the detention protocol and written information regarding the rights and duties of a detained person;

4) to meet with a defence counsel in conditions ensuring confidentiality of negotiations without special permission of a person directing the proceedings and without time restrictions;

5) to express orally or in writing his or her attitude in relation to the justification for detention;

6) to testify or refuse to provide testimony;

7) to submit a recusation to a person directing the proceedings, as well as the member of an investigative group who performs investigative actions with the detained person;

8) to submit complaints regarding the actions of officials;

9) to submit requests regarding the emergency performance of investigative actions as a result of which evidence may be acquired for confirming the invalidity of suspicions;

10) to receive legal assistance from a defence counsel during the conducting of procedural actions.

(2) An image of a detained person recorded as a photograph, video, or by other types of technical means shall not be published in the mass media during procedural actions without the consent of such detained person if such publication is not necessary for the disclosure of a criminal offence.

(3) A detained foreign national has the right to request that the diplomatic or consular representation office of his or her state be informed.

[19 January 2006]

Section 64. Duties of a Detained Person

(1) A detained person has a duty to provide true identifying information regarding him or herself.

(2) A detained person has a duty to allow for him or herself to be subjected to a study of an expert, and to submit samples for comparative study or to allow that such samples be obtained.

(3) A detained person shall comply with specified procedures during the conducting of procedural actions.

Section 65. Suspects

If the totality of evidence provides grounds for the allegation of a person directing the proceedings that the criminal offence to be investigation was most likely committed by a

concrete person, he or she shall take a written decision that such person is recognised as a suspect.

Section 66. Rights of a Suspect

From the moment when a person is notified that he or she is recognised as a suspect, such person shall have the following rights:

1) to receive a copy of the decision with which such person has been recognised as a suspect, as well as written information regarding the rights and duties of a detained person;

2) to invite a defence counsel and enter into an agreement with him or her without delay or to utilise legal assistance ensured by the State if he or she with his or her own funds is unable to enter into an agreement with a defence counsel. A suspected person has the right to receive from a person directing the proceedings a list of advocates practising in the relevant court region, as well as to invite a defence counsel by telephone free of charge;

3) to submit a request regarding the payment of the assistance of a counsel from State resources;

4) in the cases provided for by the Law, to request the participation of an advocate for the ensuring of a defence in a separate procedural action, if an agreement regarding assistance of a defence counsel has not yet been entered into with a concrete advocate, or if such defence counsel has not been able to arrive;

5) to meet in the place of detention with a defence counsel in conditions ensuring confidentiality of negotiations without special permission of a person directing the proceedings and without time restrictions;

6) to familiarise him or herself with a Criminal Proceedings Register not later than within a term of three days after the submission of an application;

7) to submit a recusation for officials entered in the Register;

8) to submit applications regarding the performance of investigative actions and participation in such operations;

9) to participate in investigative actions that are performed on the basis of an application of such person or the counsel thereof, if such participation does not hinder the performance of investigative actions or does not infringe upon the rights of another person;

10) to receive a motivated decision if the suspect has been refused participation in the investigative actions that are performed on the basis of his or her request or a request of the counsel thereof;

11) to familiarise him or herself with a decision regarding the determination of an expert-examination before the transferral thereof for execution, if the exert-examination applies to such person, and to request the raising of additional questions regarding which the expert must give a conclusion, except for cases where an expert-examination has been determined during another investigative action;

12) to submit complaints, in accordance with the procedures specified by Law, regarding the actions of officials authorised for the performance of criminal proceedings;

13) to appeal procedural decision in accordance with the cases, term, and procedures specified in the Law;

14) to express his or her attitude toward expressed suspicions orally or in writing;

15) to testify or refuse to provide testimony;

16) to request that measures for the regulation of criminal legal relations be performed with the consent thereof, as well as that moral, physical, and material damage be compensated;

17) to settle with the victim;

18) to submit an application regarding the termination of criminal proceedings, if the term for the completion of pre-trial proceedings specified in the Law is violated;

19) to participate with the investigating judge in the examination of his or her own complaints and the complaints of the defence counsel thereof, as well as a proposal of a person directing the proceedings, if the Law does not prescribe other procedures for examination;

20) to express a wish to co-operate with the officials who are performing the criminal proceedings;

(2) An image of a suspect recorded as a photograph, video, or by other types of technical means shall not be published in the mass media during procedural actions without the consent of such suspect if such publication is not necessary for the disclosure of a criminal offence.

(3) The failure to provide testimony shall not be assessed as a hindrance to the ascertaining of the truth in a case or an evasion of the pre-trial investigation process.

[19 January 2006]

Section 67. Duties of a Suspect

(1) From the moment when a person is notified that he or she is recognised as a suspect, such person shall have the following duties:

1) to arrive at the specified time at the place indicate by an official authorised to perform proceedings, if the invitation was made in accordance with the procedures specified by Law;

2) to not delay or hinder the progress of criminal proceedings;

3) to comply with the provision of a security measure and the restrictions referred to in the Law;

4) to permit that he or she be subjected to the study of an expert, and to submit samples for comparative study or to permit such samples to be obtained;

5) to comply with the specified procedures during the performance of procedural actions;

6) to indicate the fact that during the commitment of the criminal offence, such person was in another place (hereinafter – alibi), or the conditions provided for in the Criminal Law that exclude criminal liability.

(2) The non-execution of the provision of a security measure or the lawful requests of officials, the violation of specific restrictions, or the non-observance of procedures shall be grounds for the matter to be decided regarding the application of a stricter security measure, the determination of additional restrictions, or the application of procedural sanctions.

Section 68. Termination of the Status of a Suspect

(1) A person shall lose the status of a suspect, if:

1) criminal proceedings are terminated completely or against the concrete person;

2) the decision with which such person has been recognised as a suspect is revoked;

3) such person is held criminally liable and the criminal prosecution thereof is initiated.

(2) The fact that the decision with which a person has been recognised as a suspect has been revoked shall not be an obstacle to the repeated recognition of such person as a suspect, if additional evidence is obtained that provides sufficient grounds for the allegation that precisely such person has most likely committed a criminal offence; nevertheless, such person shall retain the rights to the completion of criminal proceedings in a reasonable term and the total term in which such person has the procedural status of a suspect shall not exceed the term specified in the Law.

(3) A person against whom criminal prosecution has been initiated may not be recognised as a suspect for the same criminal offence.

Section 69. Accused Persons

(1) An accused person shall be a person who is held criminally liable, with a decision of a person directing the proceedings, regarding the committing of a criminal offence, and against whom initiated criminal proceedings have not been terminated, and who has not been acquitted or found guilty with a court judgment that has entered into effect.

(2) One and the same person may not simultaneously be the accused and the suspect in the same criminal proceedings.

Section 70. Rights of an Accused in Pre-trial Proceedings

(1) An accused has the same rights in pre-trial criminal proceedings as a suspect, as well as the following rights:

1) after the completion of pre-trial criminal proceedings, to receive copies of all the materials of a criminal case to be transferred to a court, if such materials have not been issued earlier or with the consent of a public prosecutor to become acquainted with the materials of a criminal case to be transferred to a court;

2) to submit applications up to the end of the pre-trial criminal proceedings and to become acquainted with the received or presented materials of a criminal case to be transferred to a court ;

3) to submit an application to the investigating judge requesting that he or she be acquainted with the materials of special investigative actions that are not appended to the criminal case (primary documents);

4) to give consent or not give consent to the termination of criminal proceedings, conditionally freeing him or her from criminal liability, or to the injunction of a public prosecutor regarding a penalty;

5) to agree with a person directing the proceedings – public prosecutor regarding the completion of criminal proceedings in an agreement process;

6) to agree with a person directing the proceedings – public prosecutor regarding the possibility for a criminal case in a prosecution wherein the accused is incriminated to be adjudicated in court without an examination of evidence;

7) to revoke the complaints of counsel.

(2) Separate rights may be restricted in accordance with the procedures specified by Law, or implemented in a particular way, depending on the selected type of proceedings.

(3) The failure to provide testimony shall not be assessed as a hindrance to the ascertaining of the truth in a case or an evasion of the pre-trial investigation process.

[19 January 2006]

Section 71. Rights of an Accused in a Court of First Instance

An accused has the following rights in a court of first instance:

1) to find out the place and time of the trial in a timely manner;

2) to invite a defence counsel or request the ensuring of the participation of a defence counsel in a court session;

3) to participate in the adjudication of a criminal case and to use the language that he or she understands, if necessary using the assistance of an interpreter free of charge;

4) to submit a recusation to the composition of the court, an individual judge, a maintainer of state prosecution, and an expert;

5) to request that a defence counsel be replaced, if there exist the obstacles to his or her participation specified in the Law;

6) to agree to the non-performance of an examination of evidence in a court session;

7) to express his or her view regarding each matter to be discussed, if such view applies to his or her prosecution or personal characterising data;

8) to participate in an examination performed directly and orally of each piece of evidence, if the evidence applies to his or her prosecution or personal characterising data;

9) to submit to the court a substantiated request to utilise the rights referred to in Paragraphs 7 and 8 of this Section also in cases where the matter or evidence to be examined does not directly apply to his or her prosecution or personal characterising data;

10) to submit requests;

11) to testify;

12) to speak in court debates, if the defence counsel does not participate;

13) to say the last word;

14) to receive a copy of a court adjudication and familiarise him or herself with the minutes of a court session; and

15) to appeal a court adjudication in accordance with the procedures specified by Law.

Section 72. Rights of an Accused in an Court of Appeals

(1) In a court of appeals, the rights of an accused are to be held by an accused:

1) who has submitted an appellate complaint;

2) regarding the prosecution of whom a public prosecutor or victim has submitted an appellate protest or complaint;

3) whose interests are directly infringed upon with an appellate complaint in the part regarding the prosecution of another accused; and

4) if a judge – person directing the proceedings has recognised such rights as necessary.

(2) In a session of a court of appeals, an accused has the same rights as in a court of first instance, as well as the right:

1) to receive copies of the appellate complaint or protest that is the basis for his or her participation in a court of appeals;

2) to receive information regarding the term for the examination of complaints;

3) to submit objections or explanations regarding the appellate complaint or protest; and

4) to maintain and justify his or her complain, or withdraw his or her complaint or the complaint of a counsel.

(3) An accused has the right, beginning with the day specified by a court, to receive a copy of an adjudication of a court of appeals, and to submit a cassation complaint.

Section 73. Rights of an Accused in a Court of Cassation

(1) In a court of cassation, the rights of an accused are to be held by an accused:

1) who has submitted a cassation complaint;

2) regarding the prosecution of whom a public prosecutor or victim has submitted a cassation protest or complaint;

3) whose interests are directly infringed upon with a cassation complaint in the part regarding the prosecution of another accused; and

4) if a judge – person directing the proceedings has recognised such rights as necessary.

(2) In a court of cassation, an accused has the following rights until the initiation of the adjudication of a case:

1) to receive copies of the cassation complaint or protest that is the basis for his or her participation in the court of cassation;

2) to receive information regarding the term and procedure for the examination of complaints;

3) to submit objections or explanations regarding the cassation complaint or protest; and

4) to invite a counsel.

(3) If a case is adjudicated in oral procedure in a court session, an accused has the right to maintain or withdraw his or her complaint or a complaint of a defence counsel, and to express his or her view regarding other complaints that have been the basis for the recognition of the status of an accused in a court of cassation.

(4) If a complaint is examined in a written procedure in a court of cassation, an accused has the right:

1) to receive copies of the cassation complaint or protest that is the basis for his or her participation in the court of cassation;

2) to submit a recusation to the composition of the court, or an individual judge;

3) to submit written objections regarding the complaints of other persons; and

4) to submit a substantiated request regarding the examination of a complaint in an oral procedure in a court session in his or her presence.

Section 74. Duties of an Accused

An accused has the same duties in all stages of criminal proceedings as a suspect.

Section 75. Rights of a Person who has Committed a Criminal Offence in a State of Incapacity

(1) A person who has committed a criminal offence in a state of incapacity, but who may participate in criminal proceedings, in accordance with the conclusion of a court psychiatric expert-examination, regarding the determination of a security measure of a medical nature, has the same rights as an accused, except for the right to refuse a defence counsel and the right to speak in court debates.

(2) The person referred to in Paragraph one of this Section has the right to the payment from State resources of the assistance of a defence counsel.

(3) If, in accordance with a conclusion of a court psychiatric expert-examination, a person may not participate in criminal proceedings, all the rights thereof to assistance of a defence counsel shall be implemented by a counsel and, in the framework specified by Law, also by a representative who a person directing the proceedings has permitted to participate in the proceedings.

Section 76. Rights of Person who has Committed a Criminal Offence regarding which a Limitation Period has Come into Effect

(1) If a person admits his or her guilt in the committing of a criminal offence, such person has the right to request the termination of criminal proceedings in connection with the coming into effect of a limitation period of criminal liability.

(2) If a person does not admit his or her guilt in the committing of a criminal offence, such person has the right to submit a complaint regarding the decision of a public prosecutor regarding the termination of criminal proceedings in connection with the limitation period of criminal liability in the court that has jurisdiction over the examination of the relevant criminal offence in the first instance.

(3) During the examination of a complaint, the submitter of the complaint has the same rights as an accused in a court of first instance, except for the right to the last word and the right to appeal a court adjudication.

Section 77. Rights of a Person who Intervenes regarding the Exoneration of a Deceased Person

(1) If criminal proceedings are terminated with a decision of a person directing the proceedings for non-exonerating reasons, in substance finding a person guilty for the committing of a criminal offence, and the person dies after such termination, the legal representatives or close relatives of such person, or persons at the disposal of whom are facts that testify to the innocence of such deceased person, may enter into criminal proceedings in order to exonerate the deceased person.

(2) The persons referred to in Paragraph one of this Section have the right to request the continuation of criminal proceedings, assigning an advocate for the defence of the claim referred to in the application, and determining the framework of the advocate's authorisation.

(3) A person who has requested the continuation of proceedings has the same rights as an accused in pre-trial proceedings and in court, except for the right to the last word in court.

(4) In pre-trial proceedings and in court, the advocate who implement the defence of the requests referred to in an application has the same rights as a defence counsel in proceedings regarding the determination of a security measure of a medical nature, when the defendant cannot participate in proceedings.

Section 78. Rights of a Person against whom Criminal Proceedings have been Terminated in Connection with Conditions that Exclude Criminal Liability

(1) If criminal proceedings are terminated in connection with the fact that a person has committed a criminal offence without violating the necessary boundaries of defence, while conducting detention, in a state of extreme necessity, or as a result of justified professional risk, but such person does not admit to the criminal offence, such person has a right to submit a complaint regarding the decision of the public prosecutor in a district (city) court.

(2) During the examination of a complaint, such person has the same rights as a person who disputes his or her guilt in a criminal offence regarding the committing of which a limitation period has come into effect for such person.

Section 79. Defence Counsel

(1) A defence counsel shall be an advocate practicing in Latvia who implement the defence in criminal proceedings, or a specific stage or separate procedural action thereof of a person who has the right to defence.

(2) The following may be a defence counsel in criminal proceedings:

1) a sworn advocate;

2) an assistant of a sworn advocate;

3) A citizen of a European Union Member State who has acquired the classification of an advocate in one of the Member States of the European Union;

4) a foreign advocate (except for the advocate referred to in Paragraph three of this Section) in accordance with the international agreement regarding legal assistance binding on the Republic of Latvia.

(3) A defence counsel shall not refuse the defence that he or she must perform in accordance with an agreement without the consent of the defendant.

(4) A defence counsel shall participate in a case from the moment of an agreement or the acceptance of a task, if the defendant has obtained the right to assistance of a defence counsel in accordance with the procedures specified by this Law.

(5) The rights of an advocate as a defence counsel to participate in criminal proceedings shall be approved by a retainer.

(6) A defence counsel shall not undertake the defence of another person, or provide legal assistance thereto, if such undertaking or provision is in conflict with the interests of the defendant with whom an agreement was signed earlier.

(7) A defence counsel shall not enter into an agreement regarding the defence of several persons in one criminal proceedings if conflicts exist between the defence interests of such persons.

Section 80. Retaining a Defence Counsel

(1) An agreement with a defence counsel shall be entered into by a person who has the right to assistance of a defence counsel, or other persons who are under the assignment or acting in the interests thereof.

(2) In cases where the participation of a defence counsel is mandatory, or on the basis of a request of an interested person, an agreement may be entered into by an authority to which the ensuring of legal assistance has been entrusted.

(3) A person directing the proceedings shall not enter into an agreement regarding defence and may not retain a particular advocate as a defence counsel, but shall provide an interested person with necessary information and provide such person with the opportunity to utilise means of communication for the retention of the defence counsel.

(4) In cases where the participation of a defence counsel is mandatory, but the interested person has not entered into an agreement with a defence counsel, a person directing the proceedings shall inform the authority to which the ensuring of legal assistance has been entrusted that such authority must ensure a defence counsel.

(5) If an agreement has not yet been entered into with a defence counsel, a person directing the proceedings shall invite an advocate, in the emergency cases provided for in the Law, to ensure assistance of a defence counsel in a separate procedural action.

Section 81. Defence Counsel in a Separate Procedural Action

(1) An advocate shall be retained, on the basis of a special assignment, to ensure defence in an individual procedural action, if an agreement has not yet been entered into regarding the participation of a defence counsel in criminal proceedings, or if a defence counsel who was duly notified has not been able to arrive for the performance of the following procedural actions:

1) the provision of testimony in connection with detention;

2) recognition as a suspect, and the first interrogation of a suspect;

3) examination by an investigating judge of a matter related to the application of a security measure.

(2) A person directing the proceedings shall ensure the retention of an advocate in accordance with the procedures specified by regulatory enactments.

(3) The performance of defence in an individual procedural action imposes upon an advocate the duty to undertake defence in the entire criminal proceedings or a stage thereof.

Section 82. Rights and Duties of a Defence Counsel in Ensuring Defence in an Individual Procedural Action

(1) In ensuring the defence of a detained person, a suspect, or an accused in an individual procedural action, a defence counsel has the same rights and duties in connection with a concrete procedural action as a defence counsel who participates in the entire proceedings.

(2) A defence counsel may meet with the defendant both before and after a procedural action in order to prepare for the performance of the operation, and to discuss the results thereof.

(3) A defence counsel has also the right, after the completion of an operation and independent of the defendant, to utilise the rights specified for a defence counsel in the submission of a complaint regarding the actions of officials, and in the submission of a request, if such utilisation arises directly from the performed operation and complies with the co-ordinated defence position of the defendants.

(4) A defence counsel, utilising his or her professional knowledge and experience, shall provide a detained person, suspect, or accused with the legal information and recommendations that are necessary in order to designate a defence position corresponding to the conditions, and to implement such position.

Section 83. Mandatory Participation of a Defence Counsel

(1) The participation of a defence counsel is mandatory in criminal proceedings:

1) if a minor, person not having the capacity to act, or person with diminished mental capacity has the right to assistance of a defence counsel;

2) regarding the determination of compulsory measures of a medical nature;

3) if such proceedings are continued in connection with an application regarding the exoneration of a deceased person;

4) if the right to assistance of a defence counsel is held by a person who is not able to completely utilise his or her procedural rights due to a physical or mental deficiency;

5) if the right to assistance of a defence counsel is held by an illiterate person or a person with a level of education so low that such person may not completely utilise his or her procedural rights.

(2) The participation of a defence counsel is mandatory in criminal proceedings that take place in accordance with the procedures of agreement proceedings from the moment when negotiations are begun with the accused regarding the entering into of an agreement.

Section 84. Payment for the Assistance of a Defence Counsel

(1) Payment for the assistance of a defence counsel shall be ensured, in accordance with an agreement, by the person who has invited the defence counsel and signed the agreement.

(2) The Cabinet shall determine the procedures for and amount of payment of State ensured legal assistance.

(3) The institution liable for the provision of legal assistance shall make payment, in accordance with the procedure and amount specified by the Cabinet, from the State resources provided for such purposes to an advocate for the ensuring of defence in an individual procedural action,.

(4) A defence counsel has the right to request the recovery of payment.

[19 January 2006]

Section 85. Rights to Exemption from Payment for the Assistance of a Defence Counsel

(1) The following have the right to exemption from payment for the assistance of a defence counsel, which in such case shall be covered from State resources:

1) a person whose financial situation excludes the possibility to ensure payment from his or her own resources for the assistance of a defence counsel;

2) a person who has not wished for a defence counsel in criminal proceedings wherein the participation of a defence counsel is mandatory.

(2) A decision regarding the payment from State resources of the assistance of a defence counsel shall be taken by an investigating judge in pre-trial proceedings, or by the court in adjudication.

Section 86. Rights and Duties of a Defence Counsel

(1) A defence counsel has all the rights that are held by his or her defendant in the relevant proceedings, as well as the right:

1) to request, in accordance with the procedures specified by regulatory enactments, and receive information necessary for the defence of a person;

2) to participate, in accordance with procedures corresponding to the type and stage of proceedings, in an interrogation of the defendant, to participate in other investigative actions regarding the performance of which a person who has the right to defence, or the defence counsel, has submitted a request, and to participate in the investigative actions wherein the defendant would be entitled to participate, but does not do so;

3) to familiarise him or herself in criminal proceedings, in the cases of mandatory defence referred to in Paragraph one of Section 83 of this Law, with all the materials of the case from the moment of the submission (initiation of criminal prosecution) of the prosecution, and to receive copies of such materials;

4) to familiarise him or herself, after the completion of an investigation, with the materials of a criminal case, and to copy the necessary materials with technical means;

5) to speak in court debates;

6) to submit an application to the Supreme Court regarding the renewal of criminal proceedings in connection with newly disclosed circumstances.

(2) A defence counsel shall not replace a defendant, but shall operate in the interest thereof. Only a defendant shall be represented by him or herself in the procedural actions wherein his or her subjective view is expressed, and, in particular:

1) in the expression of his or her attitude toward the suspicions or prosecution;

2) in the provision of testimony;

3) in the last word.

(3) A defence counsel has the right to meet with a detained or arrested defendant in conditions ensuring confidentiality, without restrictions on the number or duration of meeting times, and without the special permission of a person directing the proceedings, and, if necessary, inviting an interpreter. Such meeting may take place in the visual control conditions of an authorised official, but outside of hearing distance.

(4) If there is concrete information regarding facts that testify that a defence counsel utilises his or her rights in order to delay a procedural action, or consciously violates his or her rights, an investigating judge, on the basis of a proposal of a person directing the proceedings, or a court may restrict the duration of meetings or provide that meetings occur in conditions that exclude the transferral of written materials or other objects to the defendant. The Council of Latvian Sworn Advocates shall be notified regarding such decision.

(5) A defence counsel has a duty to utilise his or her professional knowledge and experience, as well as all the means and techniques of defence indicated in the Law, in order to ascertain what are the justifying and mitigating circumstances for a person who has the right to defence, and to provide such person with the necessary legal assistance.

(6) In appealing the adjudication of a public prosecutor regarding the completion of proceedings, a defence counsel shall inform the defendant.

(7) A defence counsel is not entitled to disclose information regarding what has been made known to him or her in connection with the performance of defence without the consent of the defendant.

Section 87. Conditions that Prohibit an Advocate from Participating in Criminal Proceedings

(1) An advocate shall not undertake defence or the provision of legal assistance, and he or she shall inform the defendant regarding the necessity to revoke an agreement if such agreement has already been entered into, if:

1) he or she has provided or provides legal assistance in such case to the person whose interests are in conflict with the interests of the person who requested the provision of legal assistance in the same case;

2) the interest of such person are in conflict with the interests of another person with whom an agreement was entered into earlier in another administrative proceedings, civil proceedings, or criminal proceedings;

3) the interests of the defendant are in conflict with the interest of the advocate or of persons with whom such defendant is in a relation of kinship to the third degree, affinity to the second degree, or to whom he or she is married or with whom he or she has a common household;

4) earlier in such proceedings, the advocate was an official who was authorised to perform criminal proceedings;

5) the official with whom the advocate has a relation of kinship to the third degree, affinity to the second degree, or to whom he or she is married or with whom he or she has a common household has been entered in a particular Criminal Proceedings Register;

6) the advocate is a witness or victim in such proceedings.

(2) If an advocate continues to operate in a conflict of interest situation, a person involved in criminal proceedings may express a recusation to the advocate, which shall be decided by a person directing the proceedings.

Section 88. Refusing of a Defence Counsel

(1) A person who has the right to defence is entitled to refuse a defence counsel. Such refusal shall be allowed only on the basis of the initiative of the person him or herself. The refusing of a defence counsel shall not be an obstacle to the participation, in criminal proceedings, of a maintainer of State prosecution and the defence counsel of another person.

(2) If a person who has the right to defence refuses a defence counsel, such refusal shall be recorded in the minutes of the procedural action. The person shall unequivocally certify with his or her signature that the refusing of a defence counsel has taken place voluntarily and on the basis of the initiative of the person him or herself. If a person who has the right to defence has expressed a request regarding the participation of a defence counsel, the refusal of a defence counsel may take place only in the presence of the defence counsel.

(3) The refusing of a defence counsel shall not be binding to a person directing the proceedings, if the persons referred to in Paragraph one of Section 83 of this Law refuses the defence counsel.

Section 89. Representative of a Minor

(1) In order to completely ensure the rights and interests of a minor person who has the right to defence, the representative thereof may participate in criminal proceedings.

(2) The following may be a representative:

1) one of the lawful representatives (mother, father, guardian, trustee);

2) one of the grandparents, or a brother or sister of legal age, if the minor has lived together with one of such persons and the relevant relative takes care of the minor;

3) a representative of an authority protecting the rights of children;

4) a representative of a non-governmental organisation that performs the function of protecting the rights of children.

(3) A representative shall be permitted to participate in criminal proceedings, or he or she shall be replaced, with a decision a person directing the proceedings, which may also be written in the manner of a resolution. In deciding such matter, the person directing the proceedings shall observe the sequence specified in Paragraph two of this Section and the opportunities and desire of the concrete persons to truly protect the interests of the minor.

(4) A representative shall be permitted to participate in criminal proceedings from the moment when a minor has acquired the right to assistance of counsel, and a decision has been taken regarding the participation of his or her representative.

(5) A decision shall be taken without delay, but not later than within a term of three working days. If it is not possible to choose one of the persons referred to in Clauses 1 and 2 of Paragraph two of this Section within such term, a representative of the authority protecting the rights of children shall be invited.

(6) A representative shall terminate his or her participation in criminal proceedings when the person to be represented attains legal age.

Section 90. Rights of the Representative of a Minor Person in the Actualisation of Defence

(1) If a minor person has the right to assistance of counsel, his or her representative is entitled:

1) to know the procedural status and rights of the person to be represented;

2) to receive copies of the decisions that determine the status of the person to be represented, and information regarding his or her own rights and the rights of the person to be represented;

3) to familiarise him or herself with the Criminal Proceedings Register and submit recusations to the officials entered therein;

4) to submit complaints regarding the actions and decisions of officials, to submit requests in accordance with the same procedures as the person to be represented;

5) to receive copies of the materials of the criminal case to be submitted to the court, if the minor is in detention;

6) *[19 January 2006]*

7) to receive information regarding the term and place of the trial of a criminal case in a court of any instance;

8) to participate in closed court sessions;

9) to familiarise him or herself with court adjudications in accordance with the same procedures as a defence counsel;

10) to appeal court adjudications in accordance with the same procedures and amount as the person to be represented;

11) to invite a defence counsel for the actualisation of the rights of defence.

(2) A representative may participate with the consent of a person directing the proceedings in the procedural actions wherein the person to be represented participates.

[19 January 2006]

Section 91. Representative in Criminal Proceedings regarding the Determination of Compulsory Measures of a Medical Nature

(1) In order to completely ensure the rights and interests of a person who has committed a criminal offence in a state of incapacity, the representative thereof may participate in criminal proceedings.

(2) The following may be a representative:

1) a trustee;

2) a spouse;

3) a mother, father, or guardian;

4) one of the grandparents, or a brother, sister, son, or daughter of legal age, or another close relative of legal age, if the person lives together with him or her and he or she cares for such person;

5) a representative from the medical institution wherein the person is receiving treatment;

6) a representative of the Orphan’s Court (parish court).

(3) A representative shall be permitted to participate in criminal proceedings, or he or she shall be replaced, with a decision by a person directing the proceedings, which may also be written in the manner of a resolution. In deciding such matter, the person directing the proceedings shall observe the sequence specified in Paragraph two of this Section and the opportunities and desire of the concrete persons to truly protect the interests of the person in a state of incapacity.

(4) A representative of a person who has committed a criminal offence, and proceedings for the determination of compulsory measures of a medical nature have been initiated because the person has fallen ill with mental disturbances after the committing of the criminal offence, may also participate in criminal proceedings.

(5) A representative shall be permitted to participate in criminal proceedings from the moment when proceedings are initiated for the determination of compulsory measures of a medical nature, and a decision has been taken regarding the participation of the representative.

(6) A representative shall terminate his or her participation in criminal proceedings if the proceedings are continued in accordance with general procedures.

Section 92. Rights of a Representative in Proceedings regarding the Determination of Compulsory Measures of a Medical Nature

(1) The representative of a person who has committed a criminal offence in a state of incapacity has the right:

1) to receive information regarding his or her own rights and the rights of the person to be represented;

2) to familiarise him or herself with the Criminal Proceedings Register and submit recusations to the officials entered therein;

3) to submit complaints regarding the actions and decisions of officials, to submit requests in accordance with the same procedures as the person to be represented;

4) to receive copies of the materials of the criminal case to be submitted to a court;

5) *[19 January 2006]*

6) to receive information regarding the term and place of the examination of a criminal case in a court of any instance;

7) to participate in closed court sessions;

8) to familiarise him or herself with court adjudications, and to appeal such adjudications in accordance with the same procedures as a defence counsel;

(2) The rights referred to in Paragraph one of this Section are also to be held by the representative of a person who has fallen ill with mental disturbances after the committing of a criminal offence.

[19 January 2006]

Section 93. Representative of a Legal Person in Proceedings regarding the Application of a Coercive Measure

(1) In order to ensure the rights and interests of a legal person in proceedings regarding the application of a coercive measure to the legal person in connection with a criminal offence of a natural person committed in the interests of such legal person, a representative of the legal person may participate in criminal proceedings.

(2) The following may be a representative of a legal person:

1) a natural person in accordance with the authorisations that have been specified in documents regulating the operations of the legal person;

2) a natural person, on the basis of a power of attorney issued specially for such purpose.

(3) The representative of a legal person may not be a person who is a witness or victim in the concrete criminal proceedings, or the personal interests of whom or of close relatives thereof are in conflict with the interests of the legal person to be represented.

(4) A representative shall be permitted to participate in criminal proceedings, or he or she shall be replaced, with a decision by a person directing the proceedings, which may also be written in the manner of a resolution.

Section 94. Rights of a Representative of a Legal Person in Proceedings regarding the Application of a Coercive Measure

(1) A representative of a legal person has the same rights and procedural duties as an accused.

(2) A representative of a legal person may retain an advocate for the complete actualisation of his or her rights. The legal person shall ensure the work remuneration of the advocate.

Chapter 6
Victims and the Representation thereof

Section 95. Persons who may be Victims

(1) A victim in criminal proceedings may be a natural person or legal person to whom harm was caused by a criminal offence, that is, a moral injury, physical suffering, or a material loss.

(2) A victim in criminal proceedings may not be a person to whom moral injury was caused as a representative of a specific group or part of society.

(3) If a person dies as a result of a criminal offence, the victim in criminal proceedings may be the surviving spouse, one of the ascending or descending relatives of the deceased, or the adopter or a collateral relative of the first degree of such deceased.

Section 96. Recognition as a Victim

(1) A person shall be recognised as a victim by a person directing the proceedings, or a member of an investigative group, with a decision thereof, which may also be written in the manner of a resolution.

(2) A person directing the proceedings shall inform a person in a timely manner regarding the rights thereof to be recognised as a victim in criminal proceedings.

(3) A person may be recognised as a victim only with the written consent of such person or the representative thereof.

Section 97. General Principles of the Rights of a Victim

(1) A victim, taking into account the amount of financial loss, physical suffering, and moral injury caused to him or her, shall submit the amounts of such damage, and utilise his or her procedural rights for acquiring moral and material compensation.

(2) A victim may implement all of the rights referred to in Sections 98, 99, 100, and 101 of this Law only in the part of criminal proceedings that directly applies to the criminal offence with which damage was caused to him or her.

(3) A victim has the right, in all stage of criminal proceedings and in all types thereof, to participate in criminal proceedings using the language that he or she understands, and, if necessary, utilising the assistance of an interpreter free of charge.

(4) A victim – natural person may implement the rights thereof him or herself, or with the intermediation of a representative.

(5) The rights of a victim – legal person shall be implemented by the representative thereof.

(6) In order to ensure the actualisation of rights, a victim or the representative thereof may invite the person referred to in Paragraph two of Section 79 of this Law for the provision of legal assistance.

(7) A victim shall implement his or her rights voluntarily and in an amount designated by him or her. The non-utilisation of rights shall not delay the progress of proceedings.

(8) A victim may settle, in all stages of proceedings and in all types thereof, with the person who caused harm to him or her. In the cases provided for in the Law, a settlement shall be the grounds for the termination of criminal proceedings.

(9) An image of a victim recorded as a photograph, video, or by other types of technical means shall not be published in the mass media during procedural actions without the consent of such victim if such publication is not necessary for the disclosure of a criminal offence.

Section 98. Rights of a Victim in Pre-trial Criminal Proceedings

(1) A victim has the following rights in pre-trial criminal proceedings:

1) to familiarise him or herself with the Criminal Proceedings Register, and to submit a recusation to officials entered therein, not later than within a term of three working days after the submission of an application;

2) to not testify against him or herself or against his or her close relatives;

3) to submit applications regarding the performance of investigative and other operations;

4) to familiarise him or herself with a decision regarding the determination of an expert-examination before the transferral thereof for execution, and to submit an application regarding the amendment thereof, if the expert-examination is conducted on the basis of his or her own application;

5) *[19 January 2006]*

6) to submit complaints, in accordance with the procedures specified by Law, regarding the actions of an official authorised for the performance of criminal proceedings;

7) to appeal procedural decisions in pre-trial criminal proceedings in accordance with the cases, term, and procedures specified by Law;

8) after the completion of an investigation, to receive copies of the materials of the criminal case to be transferred to a court that directly apply to the criminal offence with which harm has been caused to him or her;

9) *[19 January 2006]*

10) to submit a request to the investigating judge that he or she be acquainted with the materials of special investigative actions that are not appended to the criminal case (primary documents);

(2) In questioning and interrogation, a victim also has all the rights and duties of a witness.

[19 January 2006]

Section 99. Rights of a Victim in a Court of First Instance

A victim has the following rights in a court of first instance:

1) to find out the place and time of the trial in a timely manner;

2) to submit a recusation to the composition of the court, an individual judge, a maintainer of state prosecution, and an expert;

3) to participate him or herself in the examination of a criminal case;

4) to express his or her view regarding every matter to be discussed;

5) to participate in an examination performed directly and orally of each piece of evidence to be examined in court;

6) to submit applications;

7) to speak in court debates;

8) to familiarise him or herself with a court adjudication and the minutes of a court session;

9) to appeal a court adjudication in accordance with the procedures specified by Law.

[19 January 2006]

Section 100. Rights of a Victim in an Court of Appeals

(1) If an adjudication of a court of first instance is appealed in the part regarding a criminal offence with which harm was caused to a victim, a person directing the proceedings shall send copies of received appellate complaints to the victim, and a court of appeals shall notify regarding the time, place, and procedures for the examination of the complaints.

(2) In a court session, a victim has the same rights as in a court of first instance, as well as the right to maintain and justify his or her complaint, or withdraw such complaint.

(3) A victim has the right to familiarise him or herself with the minutes of a court session, to receive an adjudication of a court of appeals on the day specified by the court, and to submit a cassation complaint.

Section 101. Rights of a Victim in a Court of Cassation

(1) If an adjudication of a court of appeals is appealed in the part regarding a criminal offence with which harm was caused to a victim, a person directing the proceedings shall send copies of received cassation complaints to the victim, and a court of cassation shall notify regarding the time, place, and procedures for the examination of the complaints.

(2) If a complaint is examined in a written procedure in a court of cassation, a victim has the right:

1) to submit a recusation to the composition of the court, or an individual judge;

2) to submit written objections regarding the complaints of other persons;

3) to submit a substantiated request regarding the examination of a complaint in an oral procedure in an open court session in his or her presence.

(3) In examining a case in a court session in proceedings taking place orally, a victim has the right to submit recusations, maintain or withdrawn his or her complaint, and to express a view regarding other complaints that have been the grounds for his or her participation in a court of cassation.

Section 102. Victim in a Private Prosecution Case

(1) A person to whom harm has been caused as a result of the criminal offence provided for in Sections 130 (except for cases related to violence in the family), 156, 157, and 158 of the Criminal Law shall submit a complaint to the district (city) court according to his or her place of residence, and shall be recognised as a victim with a decision of a judge regarding the initiation of criminal proceedings.

(2) In a private prosecution case, a victim has a duty to prove the accusation expressed in the complaint. For this purpose, the victim shall submit a request to a judge regarding the summoning of a person to court, and regarding the requesting of the necessary materials, if such summoning and requesting requires the authorisation of a State official.

(3) In adjudicating a case in court, a victim has the rights specified in Sections 99, 100, and 101 of this Law.

Section 103. Duties of a Victim

(1) A victim has a duty to arrive for the performing of criminal proceedings at the time and place indicated by an authorised official, and to participate in an investigative action.

(2) A victim does not have a duty to utilise his or her procedural rights, and he or she may not be asked to be subjected to conveyance by force, if such victim is not asked in connection with the necessity to participate in an investigative action.

Section 104. Persons who may be the Representative of a Victim – Natural person

(1) A victim – natural person of legal age may be represented, on the grounds of the authorisation of the victim, by any natural person of legal age and with the capacity to act.

(2) If harm has been caused to a minor person, the victim shall be represented by:

1) a mother, father, or guardian;

2) one of the grandparents, or a brother or sister of legal age, if the minor has lived together with one of such persons and the relevant relative takes care of the minor;

3) a representative of an authority protecting the rights of children;

4) a representative of a non-governmental organisation that performs the function of protecting the rights of children.

(3) If harm has been caused to a person who has been recognised as not having the capacity to act, the victim shall be represented by the trustee thereof or one of the persons referred to in Paragraph two of this Section.

(4) In the cases referred to in Paragraphs two and three of this Section, all the rights of a victim belong completely to his or her representative, and the victim may not independently implement such rights, except for the rights of a minor to provide testimony and express his or her view.

(5) If the rights of a minor and the protection of the interests thereof are encumbered or otherwise not ensured, or the representatives referred to in Paragraph two of this Section submit a substantiated request, a person directing the proceedings shall take a decision regarding the retaining of an advocate as the representative of a minor victim. In such cases, the work of the advocate shall be paid, in accordance with the procedures specified by the Cabinet, from the State resources provided for such purposes.

(6) In exceptional cases, a person directing the proceedings shall take a decision regarding the retaining of the representative – advocate of a victim – deprived person of legal age, if it is otherwise not possible to ensure the protection of the rights and interests of the person.

(7) A representative of a minor person not having the capacity to act shall be permitted to participate in criminal proceedings with a decision by a person directing the proceedings, which may also be written in the manner of a resolution.

(8) In deciding a matter regarding permission to participate in criminal proceedings regarding a representative of a minor victim or a victim not having the capacity to act, a person directing the proceedings shall observe the sequence specified in Paragraph two of this Section, and the possibilities and desire of the concrete persons to truly protect the interests of the victim.

Section 105. Representation of a Victim – Legal Person in Criminal Proceedings

(1) A legal person that has been recognised as a victim may be represented by natural persons:

1) in accordance with the authorisations specified in the Law;

2) in accordance with the authorisations that have been specified in documents regulating the operations of the legal person;

3) on the basis of a power of attorney issued specially for such purpose.

(2) A representative shall be permitted to participate in criminal proceedings, after the submission and examination of his or her power of attorney, with a decision by a person directing the proceedings, which may also be written in the manner of a resolution.

Section 106. Persons who may not be the Representative of a Victim

(1) An official who has been entered into the Criminal Proceedings Register may not be the representative of the victim.

(2) A person who is directly or indirectly interested in the deciding of a case in favour of a person who has caused harm may not be the representative of the victim.

Section 107. Rights of the Representative of a Victim

(1) If a victim implements his or her interests with the intermediation of a representative, the representative has all the rights of the victim.

(2) The representative of a minor victim who has reached the age of fifteen years may implement his or her rights together with the person to be represented.

Section 108. Provision of Legal Assistance to a Victim

(1) A victim or the representative thereof may retain an advocate for the provision of legal assistance in order to completely implement the rights of such victim.

(2) An advocate who participates as the representative of a victim does not have the rights referred to in Paragraph one of this Section.

(3) A provider of legal assistance has the right to participate in all procedural actions that take place with the participation of a victim, and to completely or partially utilise the rights of the victim on the basis of a request of such victim.

Chapter 7
Other Persons Involved in Criminal Proceedings

Section 109. Witnesses

(1) A witness is a person who has been invited, in accordance with the procedures specified by Law, to provide information (testify) regarding the circumstances to be proven in criminal proceedings and the facts and auxiliary facts related to such circumstances.

(2) In pre-trial criminal proceedings, a witness shall provide information in an inquiry or interrogation. During adjudication, a victim shall provide information only in an interrogation.

(3) A person directing the proceedings may also invite as a witness an official who is or was authorised to perform proceedings in pre-trial proceedings, except for an investigating judge or public prosecutor, if such person maintains State prosecution in a concrete criminal proceedings.

Section 110. Rights of a Witness

(1) A witness has the right to know in what criminal proceedings he or she has been invited to testify, to which official he or she has provided information, and the procedural status of such official.

(2) Before an inquiry and interrogation, a witness has the right to receive information from an executor of a procedural action regarding his or her rights, duties, and liability, the mode of the recording of information, as well as regarding the right to provide testimony in a language that he or she knows well, utilising the services of an interpreter, if necessary.

(3) A witness has the right:

1) to make notes and additions in testimonies recorded in writing, or to request the opportunity to write testimonies by hand in a language that he or she commands;

2) to not testify against him or herself or against his or her close relatives;

3) to submit a complaint regarding the progress of an inquiry or interrogation during pre-trial criminal proceedings;

4) to submit a complaint to an investigating judge regarding the unjustified disclosure of a private secret, or to request that the court withdraw a matter regarding a private secret, and to request that the request be entered in the minutes of the session if such request is rejected;

5) to retain an advocate for the receipt of legal assistance.

(4) An image of a witness recorded as a photograph, video, or by other types of technical means shall not be published in the mass media during procedural actions without the consent of such witness if such publication is not necessary for the disclosure of a criminal offence.

Section 111. Duties of Witnesses

(1) In answering posed questions, a victim shall provide only true information, and shall testify regarding everything that is known to him or her in connection with a concrete criminal offence. The right to not testify is held only by persons for whom such procedural immunity has been specified in the Constitution, this Law, and international treaties binding to Latvia.

(2) A witness has a duty to arrive at the time and place indicated by an official performing criminal proceedings, and to participate in an investigative action, if the procedures for invitation have been complied with.

(3) A witness shall not disclose the content of an inquiry or interrogation, if he or she has been specially warned regarding the non-disclosure of such content.

Section 112. Advocates in Criminal Proceedings

(1) Each person in criminal proceedings has the right to retain an advocate for the receipt of legal assistance. The work remuneration of an advocate shall be ensured by the person him or herself, except for the cases referred to in this Law.

(2) An advocate who provides legal assistance to a person in criminal proceedings has the right to receive information from the person directing the proceedings regarding the essence of the criminal case, as well as to participate together with the person in the investigative actions that take place with the participation of such person, to provide such person with legal assistance and explanations, to submit requests, and to submit evidence.

Section 113. Specialist

(1) A specialist is a person who provides assistance to an official performing criminal proceedings, on the basis of the invitation of such official, utilising his or her special knowledge or work skills in a specific field.

(2) An official who has invited a specialist shall inform such specialist regarding the procedural action in which he or she has been invited to provide assistance, regarding his or her rights and duties, as well as regarding liability for the conscious provision of false information.

(3) A specialist has a duty:

1) to arrive at the time and place indicated by an official performing criminal proceedings, and to participate in an investigative action, if the procedures for invitation have been complied with.

2) to provide assistance, utilising his or her knowledge and skills, but without conducting practical studies, in the performance of an investigative action, the disclosure of traces of a criminal offence, the understanding of facts and circumstances, as well as in the recording of the progress and results of the investigative action;

3) to direct the attention of the performers of an investigative action to the circumstances that are significant in the disclosure and understanding of circumstances;

4) to not disclose the content and results of an investigative action, if he or she has been specially warned regarding the non-disclosure of such content and results.

(4) A specialist has the right to make notes, in connection with the operations that he or she has performed or the explanations that he or she has provided, in the document wherein an investigative action is recorded.

Section 114. Assistants of a Person – Person Directing the Proceedings

(1) The assistant of a judge, the assistant of a public prosecutor, the secretary of a court session, or an employee of the secretariat staff of the relevant institution may perform, under the assignment of a person directing the proceedings, the procedural actions that are not investigative actions and are not related to the taking of a decision, but rather with the execution thereof.

(2) The interpreters of investigative institutions, the office of a public prosecutor, a court, and prisons shall ensure the rights of a person to use the language that such person commands. A person directing the proceedings may assign another person who commands the relevant language the performance of the duty of an interpreter.

(3) The official who invites an interpreter shall inform him or her regarding the rights and duties of an interpreter, as well as the liability regarding false translation or a refusal to translate. An interpreter for whom translation is a professional duty, and who, in

commencing the execution of the duties thereof, has certified his or her liability with a signature, shall not need to be informed regarding rights and duties.

Section 115. Conditions that Restrict the Participation of a Person in Criminal Proceedings

(1) A specialist, the secretary of a court session, and an interpreter shall inform a person directing the proceedings regarding conditions that may provide a basis for the doubting of the objectivity of a procedural action performed by such persons. A person directing the proceedings shall decide regarding the invitation of such persons to participate in criminal proceedings, or the dismissal thereof from criminal proceedings.

(2) A basis for the dismissal of an interpreter or a specialist may also be insufficient professional preparedness for the performance of the duties thereof.

Chapter 8
Immunity from Criminal Proceedings

Section 116. Grounds for Immunity from Criminal Proceedings

(1) The grounds for immunity from criminal proceedings are the Constitution and the special legal status of a person, information, or a place specified in this Law, other Laws, and international treaties that guarantees the rights for a person to completely or partially not fulfil a criminal procedural duty, or that restricts the rights to perform specific investigative actions.

(2) The immunity from criminal proceedings of a person arises from the following:

1) the criminal legal immunity of such person that is specified in the Constitution or in international treaties;

2) the office or profession of such person;

3) the status of such person in the particular criminal proceedings;

4) the kinship of such person.

(3) A person has the right to immunity from criminal proceedings, if the information requested from such person is:

1) a State secret protected by Law;

2) a professional secret protected by Law;

3) a commercial secret protected by Law;

4) a private secret protected by Law.

(4) The special legal status of a place specified in international treaties shall restrict the rights of an official to enter such place and to perform investigative actions therein.

Section 117. Types of Immunity from Criminal Proceedings

(1) Immunity from criminal proceedings shall provide a person with advantages of various levels in the execution of a criminal procedural duty, in particular:

1) completely discharges a person from the duty to participate in criminal proceedings;

2) determines special procedures for holding a person criminally liable;

3) prohibits or restrict the application of compulsory measures to a person, or determines special procedures in relation to such person;

4) prohibits or restricts the control of the means of communication and correspondence of such person;

5) discharges a person from the provision of testimony completely or in a part thereof;

6) determines special procedures for the withdrawal of documents.

(2) The special legal status of premises shall:

1) completely exclude the entry into, and the performance of investigative actions in, such premises;

2) determine the special procedures in accordance with which a permit is be received for entry into, and the performance of investigative actions in, such premises;

3) restrict the objects to be viewed and withdrawn in such premises.

Section 118. Diplomatic Immunity

(1) Diplomatic immunity shall discharge foreign diplomats, persons equivalent thereto, and the family members thereof from criminal liability in accordance with the Criminal Law, and from all criminal procedural duties.

(2) A diplomatic courier shall not be detained or arrested.

(3) The rights of a person to diplomatic immunity shall be certified by a certificate submitted by the Ministry of Foreign Affairs wherein, in accordance with international treaties entered into by the Republic of Latvia, the privileges and immunity of the relevant person are indicated.

(4) The status of a person whose diplomatic immunity is certified with a diplomatic passport submitted by a foreign state, or another personal identification document, shall be ascertained with the intermediation of the Ministry of Foreign Affairs.

(5) The premises of a diplomatic representation office, the residence of the head of a representation office, and the archives, documents, and official correspondence of a diplomatic representation office shall be inviolable regardless of the location thereof.

(6) A person who enjoys diplomatic immunity may be held criminally liable, and criminal procedural duties shall be imposed upon such person, only with the written consent of the state of dispatch.

(7) The Prosecutor General shall submit a request to permit the holding of a foreign diplomat criminally liable to the Ministry of Foreign Affairs for further deciding by means of diplomacy.

Section 119. Consular Immunity

(1) Foreign consular official provided for in international treaties shall have consular immunity.

(2) A consular courier shall not be detained or arrested.

(3) The rights of a person to consular immunity shall be certified by a certificate submitted by the Ministry of Foreign Affairs wherein, in accordance with international treaties entered into by the Republic of Latvia, the privileges and immunity of the relevant person are indicated.

(4) It shall be forbidden to enter the part of consular premises that is used only for the work needs of the consular institution without the consent of the head of the consular institution or the diplomatic representation office of the state of dispatch.

(5) The archives, documents, and official correspondence of a consular representation office shall be inviolable regardless of the location thereof.

(6) A state of dispatch may refuse any immunity from criminal proceedings. Such refusal shall be expressed in writing.

Section 120. Immunity from Criminal Proceedings of State Officials Guaranteed by Law

(1) The State President and a member of the *Saeima* shall have the immunity from criminal proceedings specified in the Constitution, that is, the referred to officials may be held criminally liable only with the consent of the *Saeima*.

(2) Only the Prosecutor General shall initiate criminal proceedings against a judge. A judge may be held criminally liable or arrested only with the consent of the *Saeima*. A decision regarding the arrest of a judge, conveyance by force, detention, or subjection to a search shall be taken by a specially authorised Supreme Court judge. If a judge has been apprehended in the committing of a serious or especially serious crime, a decision regarding conveyance by force, detention, or subjection to a search shall not be necessary, but the specially authorised Supreme Court judge and the Prosecutor General shall be informed within a term of 24 hours.

(3) A lay judge may be arrested or held criminally liable, during the execution of his or her duties related to court adjudication, only with the consent of the local government that elected him or her. A decision regarding the arrest of a lay judge, or the conveyance by force, detention, or subjection to a search thereof shall be taken by a specially authorised Supreme Court judge. If a lay judge has been apprehended in the committing of a serious or especially serious crime, a decision regarding conveyance by force, detention, or subjection to a search shall not be necessary, but the specially authorised Supreme Court judge and the relevant local government shall be informed within a term of 24 hours.

(4) A public prosecutor may be detained, conveyed by force, subject to a search, arrested, or held criminally liable in accordance with the procedures specified by Law, notifying the Prosecutor General regarding such actions without delay.

(5) An official of a State security institution or the Corruption Prevention and Combating Bureau may be detained, conveyed by force, or subjected to a search, or a search or inspection may be conducted of the residential or service premises thereof, or of

the personal or service vehicle thereof, and he or she may be held criminally liable, only with the consent of the Prosecutor General. If an official has been apprehended in the committing of a criminal offence, such consent shall not be necessary, but the Prosecutor General and the head of the relevant state security institution or office shall be informed within a term of 24 hours.

(6) In order to hold a person who has immunity from criminal proceedings criminally liable, a public prosecutor shall submit a proposal to a competent authority for the receipt of consent.

(7) A proposal shall indicate the circumstances of the committing of a criminal offence, insofar as such circumstances have been ascertained in criminal proceedings.

[19 January 2006]

Section 121. Professional Secrets Protected by Criminal Procedure

(1) The rights to not testify shall not be restricted, and personal notes shall not be withdrawn, for the following persons:

1) a clergyman, regarding information that has been discovered in a confession;

2) a defence counsel and an advocate who has provided legal assistance in any form, regarding information the confidentiality of which has been entrusted to him or her by a defendant;

3) an interpreter who has been retained by an advocate for ensuring defence rights, and regarding whom such advocate has informed a person directing the proceedings, indicating the following necessary information regarding the interpreter: given name, surname, personal identity number, and place of practice or declared place of residence.

(2) The following shall be permitted only with the permission of three judges of the Senate of the Supreme Court:

1) the examination of a judge and the withdrawal of his or her personal notes regarding a secret of the deliberations room; and

2) to examine, withdraw documents, and request information regarding employees who perform direct detective operations in a criminal environment, intelligence or counterintelligence in foreign states.

(3) The permission of an investigating judge shall be necessary:

1) for the inspection and withdrawal of secret or top secret documents containing State secrets;

2) the inspection and withdrawal of an unopened will, and the examination of persons who have approved such will regarding the will; and

3) in order to interrogate an employee and a person who performs investigatory activities on behalf of a person directing the proceedings or an investigatory institution if such persons do not wish to provide testimony.

(4) A medical institution shall provide information regarding a patient only on the basis of a written request of a person directing the proceedings.

(5) Undisclosable information or documents, which contain such information at the disposal of credit institutions may be requested in a pre-trial proceeding only with the permission of an investigating judge.

[19 January 2006]

Section 122. Immunity of an Advocate

(1) The following shall not be permitted:

1) to examine an advocate as a witness regarding facts that have become known to him or her in providing legal assistance in any form;

2) to control, perform an inspection, or withdraw documents that an advocate has drawn up, or a correspondence that he or she has received or sent in providing legal assistance, as well to conduct a search in order to find and withdraw such correspondence and documents;

3) to control the information systems and means of communication to be used by an advocate for the provision of legal assistance, to take information from such systems or means, and to interfere in the operation thereof.

(2) Unlawful activity by a representative or advocate performed in the interests of a client in providing legal assistance of any form, as well as an activity for the promotion of an unlawful offence of a client, shall not be recognised as a provision of legal assistance.

Division Two
Evidence and Investigative actions

Chapter 9
Proving and Evidence

Section 123. Proving

Proving is an operation of a person involved in criminal proceedings that is expressed as the justification, using evidence, of the existence or non-existence of facts included in an object of proof.

Section 124. Objects of Proof

(1) Objects of proof are the totality of circumstances to be proven, and the facts and auxiliary facts connected thereto, in the course of criminal proceedings.

(2) The existence or non-existence of the content of a criminal offence shall be proved in criminal proceedings, as well as other conditions provided for in the Criminal Law and this Law that have significance in the fair regulation of concrete criminal-legal relations.

(3) Related facts are not conditions to be proven in criminal proceedings, but are connected thereto, and provide a basis for drawing a conclusion regarding the conditions to be proven.

(4) The certainty or non-certainty of other evidence, as well as the possibility or impossibility to utilise such evidence in proving, shall be justified with auxiliary facts.

(5) The conditions included in an object of proof shall be considered proven, if any reasonable doubts regarding the existence or non-existence thereof have been excluded during the course of proving.

Section 125. Legal Presumption of a Fact

(1) Without the additional performance of procedural actions, the following conditions shall be considered proven, if the opposite is not proven during the course of criminal proceedings:

1) notorious facts;

2) facts determined in another criminal proceedings with a court adjudication that has entered into effect;

3) the fact of an administrative violation recorded in accordance with the procedure specified by Law, if a person has known such fact;

4) the fact that a person knows or should have known his or her duties provided for in regulatory enactments;

5) the fact that a person knows or should have known his or her professional duties and duties of office;

6) the correctness of research methods generally accepted in contemporary science, technology, art, or skilled trades.

(2) It shall be considered proven that a person has violated the copyrights, related rights, or rights to a trademark of a legal owner, if such person is not able to believably explain or justify the acquisition or origin of such rights.

Section 126. Subjects of Proof and the Duty of Proving

(1) All persons involved in criminal proceedings upon whom the duty has been imposed, or the rights have been conferred, with this Law to perform proving shall be considered subjects of proof.

(2) A person directing the proceedings has the duty of proving in pre-trial criminal proceedings, and a maintainer of prosecution has such duty in court.

(3) If a person involved in criminal proceedings considers that one of the facts presumed in Section 125 of this Law is not true, the person involved in proceedings who contends such fact has the duty to indicate evidence regarding the non-compliance with reality of such fact.

(4) A person who has the right to assistance of a defence counsel in connection with the investigation of an offence shall indicate circumstances that exclude criminal liability, as well as indicate an alibi, if such information has not already been acquired in the investigation. If the person does not indicate such circumstances or alibi, the prosecution

does not have a duty to prove the non-existence thereof, and the court shall not provide the assessment thereof in a judgment, but the person shall be prohibited from the possibility to receive compensation for losses that have occurred in unjustifiably regarding him or her as a suspect, if the termination of criminal proceedings or the acquittal of the person is related to the ascertaining of the referred to circumstances.

Section 127. Evidence

(1) Evidence in criminal proceedings is any information acquired in accordance with the procedure provided for in the Law, and fixed in a specific procedural form, regarding facts that persons involved in the criminal proceedings utilise, in the framework of the competence thereof, in order to justify the existence or non-existence of conditions included in an object of proof.

(2) Persons involved in criminal proceedings may utilise as evidence only reliable, attributable, and admissible information regarding facts.

(3) Information regarding facts acquired in investigative action measures, and information that has been recorded with the assistance of technical means, shall be used as evidence only if it is possible to examine such information in accordance with the procedures specified in this Law.

Section 128. Reliability of Evidence

(1) The reliability of evidence is the degree of the determination of the veracity of a piece of information.

(2) The reliability of the information regarding facts that is to be used in proving shall be assessed by considering all the facts, or information regarding facts, acquired during criminal proceedings as a whole and in the mutual relation thereof.

(3) No piece of the evidence has a previously specified degree of reliability higher than other pieces of evidence.

Section 129. Relevance of Evidence

Evidence shall be attributable to a concrete criminal proceedings if information regarding facts directly or indirectly approves the existence or non-existence of the circumstances to be proven in the criminal proceedings, as well as the existence or non-existence of other evidence, or the possibility or impossibility to use other evidence.

Section 130. Admissibility of Evidence

(1) It shall be admissible to use information regarding facts acquired during criminal proceedings, if such information was obtained and procedurally fixed in accordance with the procedures specified in this Law.

(2) Information regarding facts that has been acquired in the following manner shall be recognised as inadmissible and unusable in proving:

1) using violence, threats, blackmail, fraud, or duress;

2) in a procedural action that was performed by a person who, in accordance with this Law, did not have the right to perform such operation;

3) allowing the violations specially indicated in this Law that prohibit the use of a concrete piece of evidence;

4) violating the fundamental principles of criminal proceedings.

(3) Information regarding facts that has been obtained by allowing other procedural violations shall be considered restrictedly admissible, and may be used in proving only in the case where the allowed procedural violations are not essential or may be prevented, or such violations have not influenced the veracity of the acquired information, or if the reliability of such information is approved by the other information acquired in the proceedings.

(4) Evidence acquired in a conflict of interest situation shall be allowed only if a maintainer of prosecution is able to prove that the conflict of interests has not influenced the objective progress of the criminal proceedings.

Section 131. Testimony

(1) Evidence in criminal proceedings may be information regarding facts provided in a testimony during a questioning or examination by a person who has been invited, in accordance with the procedures specified by Law, to provide information (testify) regarding the circumstances to be proven in the criminal proceedings, and the facts and auxiliary facts connected thereto.

(2) Testimony is also an explanation regarding concrete facts and circumstances written and signed by a person him or herself and addressed to a court or a pre-trial investigating institution.

(3) If a person had the right, in the cases specified in this Law, to refuse to provide testimony, and the person was informed regarding such right, but nevertheless did not provide such testimony, then such testimony shall be assessed as evidence.

Section 132. Conclusion of an Expert or Auditor

(1) Evidence in criminal proceedings may be the conclusion of an expert or an auditor regarding facts and circumstances that has been provided by an expert or auditor involved in concrete criminal proceedings.

(2) Explanations provided by an expert or an auditor regarding a conclusion, or provided information regarding or circumstances, shall be the testimony of the expert or auditor.

Section 133. Conclusion of a Competent Authority

(1) A piece of evidence in criminal proceedings may be the written conclusion of an authority performing the function of control or supervision regarding the facts and circumstances of an event the control of the observance or supervision of which is performed by such institution in accordance with the competence (authorisation) specified in regulatory enactments.

(2) An inventory or audit statement drawn up by a commission of competent persons authorised for the drawing up of such statement shall also be considered the conclusion of a competent authority in criminal proceedings.

(3) A statement issued by a competent institution regarding facts and circumstances that are at the disposal of such institution in connection with the competence and directions of operations thereof shall also be considered the conclusion of a competent institution.

Section 134. Material Evidence

(1) Material evidence in criminal proceedings may be any thing that was used as a tool for committing a criminal offence, or that has preserved traces of a criminal offence, or contains information in any other way regarding facts and is usable in proving.

(2) If a thing is to be used in proving in connection with the thematic information included therein, such thing shall be considered not as material evidence, but rather as a document.

Section 135. Documents

(1) A document may be evidence in criminal proceedings, if such document is to be used in proving only in connection with the thematic information contained therein.

(2) A document may contain information regarding facts in writing or in another form. Computerised information media, and recordings made with sound- and image-recording technical means, the thematically recorded information in which may be used as evidence shall also be considered documents, within the meaning of evidence, in criminal proceedings.

Section 136. Electronic Evidence

Evidence in criminal proceedings may be information regarding facts in the form of electronic information that has been processed, stored, or broadcast with automated data processing devices or systems.

Section 137. Information Acquired by Investigative Actions

Evidence in criminal proceedings may be information regarding facts that has been fixed in the minutes of investigative actions, or recorded in other forms specified in this Law.

Chapter 10
Investigative Actions

Section 138. Investigative Actions

(1) Investigative actions are procedural actions that are directed toward the acquisition of information or the examination of already acquired information in concrete criminal proceedings.

(2) A person authorised to perform criminal proceedings is entitled to perform, within the framework of his or her authorisation, only the investigative actions provided for in this Law.

Section 139. General Provisions for the Performance of Investigative Actions

(1) Investigative actions to be previously planned shall usually be performed in the hours from 8:00 to 20:00. An investigative action shall be performed without delay in cases where such investigative action is not deferrable because such operation may lead to a loss of essential evidence, and jeopardises the reaching of the purpose of the criminal proceedings.

(2) At the beginning of an investigative action, the performer thereof shall inform a person involved in the concrete proceedings regarding the rights and duties thereof, and shall notify regarding liability for the non-execution of the duties thereof. A person whose procedural duties are also simultaneously the professional work duties thereof shall not be informed and notified.

(3) It is prohibited to use violence, threats, or lies against a person who participates in an investigative action, as well as other illegal actions, actions that do not comply with moral norms, or actions that endanger the life or health of the person or that injure the dignity of the person. A person of the opposite sex, with the exception of medical practitioners, is prohibited from participating in or performing investigative actions that are related to the denuding of the body of a person.

(4) The disclosure of information regarding the private life of a person who participates in an investigative action is prohibited, as is the disclosure of information that contains a professional secret or commercial secret, except for cases where such information is necessary for proving.

(5) An investigative action may be performed by utilising technical means in accordance with the procedure specified in Section 140 of this Law.

(6) The stage of the trial at which the special features of investigative actions are performed shall be determined by Divisions Eight through Eleven of this Law.

Section 140. Performance of an Investigative Action by Utilising Technical Means

(1) A person directing the proceedings may perform an investigative action by utilising technical means (teleconference, videoconference) if the interests of criminal proceedings require such utilisation.

(2) During the course of a procedural action utilising technical means, it shall be ensured that the person directing the proceedings and persons who participate in the procedural action and are located in various premises and buildings can hear each other during a teleconference, and see and hear each other during a videoconference.

(3) In commencing a procedural action, a person directing the proceedings shall notify:

1) regarding the places, date, and time of the occurrence of the procedural action;

2) the position, given name, and surname of the person directing the proceedings;

3) the positions, given name, and surname of the persons authorised by the person directing the proceedings who are located in the second place of the occurrence of the procedural action;

4) regarding the content of the procedural action and the performance thereof utilising technical means.

(4) On the basis of an invitation, persons who participate in a procedural action shall announce the given name, surname, and procedural status thereof.

(5) A person authorised by a person directing the proceedings shall examine and certify the identity of a person who participates in a procedural action, but is not located in one room with the person directing the proceedings. Such person has a duty to ensure the progress of a procedural action in the location of such person.

(6) A person directing the proceedings shall inform persons who participate in procedural actions regarding the rights and duties thereof, and in the cases provided for by Law shall notify regarding liability for the non-execution of the duties thereof and initiate an investigative action.

(7) A person authorised by a person directing the proceedings shall draw up a certification, indicating the place, date, and time of the occurrence of a procedural action, the position, given name, and surname thereof, and the given name, surname, personal identity number, and address of each person present at the place of the occurrence of such procedural action, as well as the announced report, if the Law provides for liability for the non-execution of the duty thereof. Notified persons shall sign regarding such report. The certification shall also indicate interruptions in the course of the procedural action, and the end time of the procedural action. The certification shall be signed by all the persons present at the place of the occurrence of the procedural action, and such certification shall be sent to a person directing the proceedings for attachment to the minutes of the procedural action.

(8) The investigative actions performed using technical means shall be recorded in pre-trial proceedings in accordance with the procedures specified in Section 143 of this Law, and other procedural actions shall be recorded in accordance with the procedures specified in Section 142 of this Law. During the adjudication of a case, the procedural actions performed using technical means shall be recorded in the minutes of a court session.

Section 141. Recording of an Investigative Action

(1) An investigative action shall usually be recorded in minutes.

(2) The progress and results of an investigative action may be recorded in a sound and image recording.

(3) In the cases specified in this Law, the progress and results of an investigative action may be recorded only in a conclusion, report, or account.

Section 142. Minutes of an Investigative Action

(1) The minutes of an investigative action shall be written during the course of the investigative actions or immediately after the completion thereof by the performer of the investigative action or, under the assignment thereof, by another person present.

(2) The minutes of an investigative action shall be written in accordance with the requirements of Section 326 of this Law.

(3) If the disclosure of the address of a person involved in an investigative action is not usable due to security reasons, such address shall be substituted in the minutes by the address and telephone number of the institution through the intermediation of which it is possible to contact the relevant person.

(4) The performer of an investigative action shall familiarise the persons who participate in the investigative action with the minutes, and all shall sign such minutes. If a person refuses to sign, an entry shall be made in the minutes regarding such refusal.

(5) Before signing, each person is entitled to request that corrections and additions be made in the minutes, or that such person make additions him or herself.

Section 143. Utilisation of a Sound and Image Recording

(1) During the course of the occurrence of an investigative action, the performer of the investigative action may record sound and image in a recording, notifying persons who participate in the investigative action regarding such recording before the commencement of the investigative action.

(2) A recording shall record the entire course of an investigative action. A partial recording shall not be allowed. If an interruption is necessary during an investigative action, the starting time of such interruption shall be indicated in the recording before the interruption, and the time of the resuming of the investigative action shall be recorded after the interruption.

(3) Information recorded in a sound and image recording shall be recognised as more precise and more complete in comparison with information recorded in writing.

(4) In writing the minutes of an investigative action, the requirement of Section 142 of this Law shall be observed, yet only the most essential facts from the course of the investigative action and from the disclosed facts shall be referred to in the minutes.

(5) The sound and image recording of an investigative action shall be stored together with a criminal case.

Section 144. Utilisation of Scientific-technical Means in Investigative Actions

(1) Scientific-technical means may be utilised in investigative actions.

(2) The utilisation of scientific-technical means in investigative actions is prohibited, if such utilisation engenders the life and health of persons who participate in the investigative action.

Section 145. Interrogation

Interrogation is an investigative action the content of which is the acquisition of information from a person to be interrogated.

Section 146. Summons to an Interrogation

(1) A person shall be summoned to an interrogation with a summons or in some other way, informing the person regarding who is summoning such person, the case in which such person is being summoned to provide testimony, the procedural status of the person, and the consequences of not attending.

(2) An arrested person shall be summoned to an interrogation through the intermediation of the institution in which such person is held. An arrested person may also be interrogated in such institution.

(3) A minor shall usually be summoned to an interrogation through the intermediation of his or her lawful representative, educational institution, or Orphan's Court (parish court). If conditions exist that justifiably prohibit or hinder the utilisation of such summoning procedure, the minor shall be summoned without utilising the referred to intermediation.

(4) A person for whom special protection has been specified shall be summoned to an interrogation through the intermediation of the institution that ensures the special protection of such person.

Section 147. Interrogation Procedure

(1) Interrogation shall begin with the ascertaining of the identity of the person to be interrogated and the languages to be used in the interrogation. It shall be ascertained whether the person being interrogated understands the language in which the proceedings are taking place, and the language in which he or she can testify.

(2) A performer of an investigative action shall explain to a person being interrogated the rights and duties provided for him or her in this Law.

(3) The data of a person to be interrogated – his or her given name, surname, and personal identity number –are a component of a testimony.

(4) If a testimony is related to numbers, dates, and other information that is difficult to remember, a person being interrogated has the right to use his or her documents and notes, as well as to read such documents and notes. The notes of the person being interrogated may be appended to the case.

(5) During the course of an interrogation, a person being interrogated may be presented with the objects, documents, and sound and image recordings appended to a case, and documents may be read to him or her or recordings played for him or her, regarding which a note shall be made in the minutes. Materials shall be presented only after the testimonies in the relevant matter of a person being interrogated have been recorded in the minutes.

(6) The reading of prior testimony of a person being examined shall be allowed if:

1) there are substantial contradictions between prior testimony and current testimony;

2) the person being examined refuses to testify; or

3) the case is being adjudicated in court in the absence of the person being examined.

(7) If special procedural protection has been specified for a person, the provisions of Section 308 of this Law shall be complied with in an examination thereof.

Section 148. Length of an Examination

(1) The length of an examination of a person of legal age shall not exceed eight hours, including an interruption, during a twenty-four-hour term without the consent of such person.

(2) An examination of a minor shall be conducted in accordance with the provisions of Sections 152 and 153 of this Law.

Section 149. Recording of an Examination

A provided testimony shall be recorded in the minutes of an examination, and written in the first person. On the basis of a request of a person to be examined, such person may write the testimony thereof by hand him or herself in the minutes of the examination.

Section 150. Examination of a Detained Person, a Suspect, and an Accused

At the beginning of the first examination of a detained person, a suspect, or an accused:

1) biographical information of the person shall be ascertained: his or her place and time of birth, citizenship, education, marital status, place of work or educational institution, type of occupation or occupational position, place of residence, criminal record;

2) the procedural situation of the person shall be explained to such person, and a copy of the document that determines such procedural situation shall be issued;

3) an extract from the Law shall be issued to the person wherein the procedural rights and duties thereof are specified, if such extract has not yet been issued to such person in the concrete criminal proceedings;

4) the rights of the person to not testify shall be explained to such person, and such person shall be notified that everything that he or she says may be used against such person.

Section 151. Examination of Witnesses and Victims

(1) Before an examination, the rights and duties of a witness and victim shall be explained to such witness or victim, and such witness or victim shall be notified regarding the liability for refusing to testify or for the conscious provision of false testimony.

(2) Witnesses and victims may be examined regarding all the circumstances that are or may be significant in a case, also regarding a suspect, an accused, or another person involved in criminal proceedings.

Section 152. Special Features of an Examination of a Minor

(1) The length of an examination of a minor shall not exceed six hours, including an interruption, during a twenty-four-hour term without the consent of such minor.

(2) A minor who has not reached 14 years of age, or, on the basis of the discretion of the performer of an investigative action, any minor, shall be examined in the presence of a pedagogue or a specialist who has been trained to perform the tasks of a psychologist for children in criminal proceedings (hereinafter – psychologist). One of the lawful representatives of the minor, a relative close to the minor, or a trustee has the right to participate in an examination, if he or she is not the person against whom the criminal proceedings have been initiated, a detained person, a suspect, or an accused, and if the minor does not object to such participation. The referred to person may ask the person being interrogated questions, with the permission of the performer of the investigative action.

(3) A minor who has not reached 14 years of age shall not be notified regarding liability for refusal to testify and for the conscious provision of false testimony.

(4) If a psychologist indicates to a person directing the proceedings that the psyche of a person who has not reached 14 years of age, the psyche of a minor who has been recognised as a victim of violence committed by a person upon whom the victim is materially dependent or otherwise dependent, or the psyche of a minor who has been recognised as a victim of sexual abuse, may be harmed by repeated direct examination, such direct examination shall be performed only with the permission of the investigating judge, but in a court – with a court decision.

Section 153. Examination of a Minor Person with the Intermediation of a Psychologist

(1) If a psychologist considers that the psyche of a person who has not reached 14 years of age, the psyche of a minor who has been recognised as a victim of violence committed by a person upon whom the victim is materially dependent or otherwise dependent, or the psyche of a minor who has been recognised as a victim of sexual abuse, may be harmed by a direct examination, such direct examination shall be performed with the intermediation of technical means and a psychologist. If an investigator or public prosecutor does not agree, the direct examination shall be performed only with the permission of the investigating judge, and in a court – with a court decision.

(2) A person directing the proceedings and another person invited by him or her shall be located in another room where technical means shall ensure that the person to be interrogated and the psychologist may be seen and heard. The person being interrogated shall be located together with the psychologist in a room that is suitable for a conversation with a minor, and in which it has been technically ensured that the questions asked by the person directing the proceedings are heard only by the psychologist.

(3) If a person to be interrogated has not reached 14 years of age, a psychologist, complying with the concrete conditions, shall explain to the minor the necessity of the operations taking place and the meaning of the information provided by such minor, ascertain personal data, ask the questions of the person directing the proceedings in a form that corresponds with the psyche of the minor, and, if necessary, inform regarding a break in the investigative action and the resuming thereof.

(4) If a person to be interrogated has reached 14 years of age, a person directing the proceedings shall inform a minor, with the intermediation of a psychologist, regarding the

essence of the investigative action to be performed, ascertain the personal data of such minor, explain his or her rights and duties, and notify regarding liability for the non-execution of the duties thereof, ask the questions of the person directing the proceedings in a form that corresponds with the psyche of the minor, and, if necessary, inform regarding a break in the investigative action and the resuming thereof.

(5) The course of an examination shall be recorded in accordance with the requirements of Sections 141 – 143 of this Law. A minor person to be interrogated shall not sign minutes.

Section 154. Duty to Indicate the Source of Information

(1) A court may assign a mass-media journalist or editor to indicate the source of published information.

(2) An investigating judge shall decide regarding the proposal of an investigator or public prosecutor, having listened to the submitter of the proposal, or a mass-media journalist or editor, and having familiarised him or herself with the materials.

(3) An investigating judge shall take a decision regarding the indication of the source of information, complying with the proportionality of the rights of the person and the public interest.

(4) A decision of a judge may be appealed by the submitter of a proposal, or a mass-media journalist or editor, and such appeal shall be examined in accordance with the procedures specified in Chapter 24 of this Law.

Section 155. Questioning

(1) If the fact that a testimony has not been recorded in detail does not threaten the reaching of the purpose of criminal proceedings, information regarding the facts included in the object of proof may also be acquired in accordance with the procedures of a questioning.

(2) In conducting a questioning, a performer of an investigative action shall personally meet with a witness, explain his or her rights and duties, and ascertain the information significant to the investigation known to such witness, or the non-existence of such information.

(3) During a questioning, testimonies may be recorded in minutes, notes may be made, and technical means that record sounds and images may be utilised.

(4) If a testimony has not been recorded in the minutes during a questioning, the performer of the investigative action shall write a report regarding the progress and results of the questioning in which the following shall be indicated:

1) the place and date of the questioning, and the start and end time thereof;

2) the position, given name, and surname of the person who performed the questioning;

3) the given name, surname, and address of the questioned persons;

4) the testimony provided by each person; if the testimonies of several persons are the same, such information shall be referred to only one time;

5) the utilised scientific-technical means;

(5) Several testimonies may be reflected in one report.

Section 156. Examination of an Expert and an Auditor

(1) A person directing the proceedings may summon an expert or auditor to provide testimony in order to:

1) ascertain the matters significant to the case that are related to the conclusion of the expert or auditor and that do not require additional research;

2) clarify information regarding the research method utilised in an expert-examination or audit, or the terms used in a conclusion;

3) acquire information regarding other facts and conditions that are not a component of a conclusion, but are related to the participation of the expert or auditor in pre-trial proceedings;

4) ascertain the qualification of the expert or auditor.

(2) An examination of an expert or an auditor shall be performed in compliance with the provisions of an examination of a witness.

Section 157. Confrontation

(1) Confrontation is the simultaneous examination of two or more persons who have been previously examined and which is performed if there are substantial contradictions in the previous testimonies of such persons.

(2) Any persons previously examined may be confronted, regardless of the procedural status of such persons.

Section 158. Confrontation Procedure

(1) Confrontation shall take place in compliance with the provisions of an examination, except for the provision indicated in this Section.

(2) Confrontation shall be commenced with a question regarding whether the confronted persons know each other, and regarding the nature of the mutual relations of such persons.

(3) During the course of a confrontation, the confronted persons shall be asked questions in succession regarding the circumstances wherein there exist contradictions in the previous testimonies thereof, and regarding the reasons for such contradictions.

(4) Confronted persons may ask one another questions with the permission of the performer of the investigative action. The performer of the investigative action is entitled to reject questions that are not essential or do not apply to the case. All asked questions and answers shall be recorded in the minutes.

(5) The previous testimonies of a confronted person may be read only after the testimony that he or she has provided during the confrontation has been recorded.

(6) Each confronted person shall sign his or her testimony.

(7) If a person for whom special procedural protection has been specified participates in a confrontation, the confrontation shall be conducted in compliance with the provisions provided for in Division Four of this Law.

Section 159. Inspection

(1) An inspection is an investigative action during the course of which the performer of the investigative action directly detects, determines, and records the features of an object, if the possibility exists that such object is related to the criminal offence being investigated.

(2) In order to find traces of a criminal offence, and to ascertain other significant conditions, a visual inspection may be performed of the site of the event, the terrain, the premises, vehicle, item, document, corpse, animal, or another object.

Section 160. General Provisions of an Inspection

(1) The performer of an investigative action may invite any person involved in concrete criminal proceedings to participate in an inspection.

(2) In order to ensure the preservation of the object of an inspection, the guarding thereof may be organised.

(3) If, during the course of an inspection, it becomes necessary to conduct a search, perform presentation for recognition, or perform other investigative actions, such operations shall be performed in compliance with the provisions for the performance of the relevant investigative action.

(4) If an object is found during the course of another investigative action, the inspection thereof may be performed in the same investigative action, recording the results of the inspection in the minutes of the investigative action.

(5) An inspection of various premises or surrounding territories may be performed simultaneously by several officials who are authorised to perform criminal proceedings. Each official shall record the course of inspection separately, indicating the borders and inspection results of each concretely inspected object.

Section 161. Participation of an Expert or Auditor in an Inspection

(1) If traces of a criminal offence, or objects for which the performance of an expert-examination is subsequently necessary, are found and removed during an inspection wherein an expert participates, the location and features of such traces or objects, the fact of the removal thereof, and the persons under the liability of whom such objects or traces have been transferred shall be indicated in the minutes of the inspection. In such cases, the inspection of the removed traces and things shall take place during the course of an expert-examination.

(2) A person directing the proceedings may assign an expert to perform an entire inspection completely, if the object to be inspected is subjected as a whole to further expert-examination.

(3) If an auditor participates in an inspection, a person directing the proceedings may assign him to perform an inspection and removal of the documents necessary for an audit

or inventory. The minutes of an inspection shall only indicate such documents, the location thereof, the fact of removal, and the auditor under the liability of whom the documents removed for the performance of the audit or inventory were transferred. The inspection of documents shall take place in the course of the audit or inventory.

Section 162. Inspection of the Location of an Event

(1) An inspection of the location of an event is an inspection of a concrete place and the objects located therein, if such inspection is performed after the receipt of information regarding a committed criminal offence, and if there are sufficient grounds for thinking that a criminal offence has taken place or is continuing to take place in such location.

(2) If an inspection of the location of an event has been performed incompletely, and doubts or additional questions have arisen, an additional inspection of the location of the event may be performed. If essential violations of procedural order have been allowed for in an inspection of the location of an event, a repeated inspection of the location of the event may be performed. An additional or repeated inspection of the location of an event shall be performed in compliance with the provisions of Section 163 of this Law.

(3) During the course of an inspection of the location of an event, the performer of the operation may remove documents and objects with traces of a criminal offence. Objects and documents the circulation of which is prohibited by Law shall be removed regardless of the connection of such objects or documents with the concrete criminal proceedings. The removal of objects and documents shall be a component of an inspection of the location of an event.

Section 163. Inspection of terrain, Premises, Vehicle, or Object

(1) If terrain, premises, vehicle, or object is related to a committed criminal offence, an inspection of such terrain, premises, vehicle, or object may be performed.

(2) An inspection of a publicly inaccessible terrain or premises, the objects located in such terrain or premises, as well as a vehicle or computer, may be performed only with the consent of the user of such terrain, premises, vehicle, or computer, or a decision of an investigating judge.

(3) Terrain, premises, or vehicles located in the ownership, possession, or usage of physical and legal persons shall be inspected, as far as possible, in the presence of such persons or of the representative thereof.

(4) In complying with the emergency nature of an inspection of the location of an event, the consent of a person is not necessary in order to enter the location of the event.

Section 164. Inspection of Corpses

(1) If a forensic-medicine expert has not been assigned to perform an external inspection of a corpse, such inspection shall be performed with the participation of a medical specialist.

(2) The cremation of a corpse shall be permitted only after the performance of a forensic-medicine expert-examination, if, during pre-trial proceedings, the consent of a

public prosecutor has been received, or if, during the trial, a court decision has been received.

Section 165. Exhumation of a Corpse

The exhumation of a corpse from the place of burial in order to perform an inspection thereof, present such corpse for recognition, remove samples for comparison, or to perform an expert-examination (exhumation of a corpse), shall be permitted with the consent of a close relative of the deceased person, or, during pre-trial proceedings, with a decision of the investigating judge, or, during trial, with a court decision.

Section 166. Exhumation Procedures

(1) An exhumation of a corpse shall be co-ordinated beforehand with the competent health-protection institution, and a forensic-medicine expert shall perform such co-ordination under the assignment of a person directing the proceedings and in the presence of a representative of the administration of the place of burial.

(2) An exhumation shall be recorded in minutes and photographed, or a video recording shall be made of such exhumation.

(3) The reburial of a corpse after an exhumation shall be conducted with the permission of the official whose decision was the basis for the conducting of the exhumation.

Section 167. Inspection of Animals

In performing an inspection of an animal, the reaction of such animal to commands or to the calling of the name of such animal shall be recorded, if necessary.

Section 168. Examination

(1) An examination of a person may be performed if there are sufficient grounds for thinking that there are traces of a criminal offence, or special features that have significance in a case, on the body of the person, or that the person him or herself is in some kind of particular physiological state, as well as in order to ascertain the physical development of such person.

(2) If a person directing the proceedings assigns another person to perform an examination, he or she shall take a decision regarding such examination that indicates the person who is to be examined, the purpose for such examination, and the person who has been assigned to perform such operation.

Section 169. Examination Procedures

(1) Examination shall take place in compliance with the provisions of an inspection, except for that which is indicated in this Section.

(2) If an examination is related to the denuding of the body of the person to be examined, but the executor of the investigative action is a person of the opposite sex, the performer of the investigative action shall assign a medical specialist to perform such

operation. Minutes shall be written by the performer of the investigative action with the participation of the medical specialist who performed the examination.

Section 170. Examination By Force

(1) If a person does not agree to an examination, such examination shall be conducted by force.

(2) The examination by force of a person who is not a detained person, suspect, or accused in a concrete criminal proceedings may be performed only on the basis of a decision of an investigating judge.

(3) If the performance of an examination is an emergency, and if delay may lead to the loss of evidence or jeopardise the reaching of the purpose of criminal proceedings, such examination may be performed with the consent of a public prosecutor, notifying the investigating judge regarding such examination, and presenting the minutes and materials of the investigative action that justified the necessity and emergency of the investigative action, not later than the next working day after the examination. The judge shall examine the legality and validity of the examination. If the investigative action was not justified, or if such operation was performed illegally, the judge shall decide regarding the admissibility of the acquired evidence.

Section 171. Investigative Experiment

An investigative experiment is an investigative action whose content is the conducting of special tests in order to ascertain whether an event or activity could have occurred under certain conditions or in a certain way, and also in order to acquire new information, and examine previously acquired information, regarding the conditions that have or may have significance in a case.

Section 172. Procedures for an Investigative Experiment

(1) Persons who perform the operations included in an investigative experiment shall participate in the experiment, if necessary, on the basis of an invitation of the performer of an investigative action.

(2) An investigative experiment shall be conducted under conditions that must comply as far as possible with the conditions under which the event or activity to be examined took place. In order to exclude a random result, the operations included in the experiment may be conducted multiple times.

Section 173. On-site Examination of Testimony

An on-site examination of testimonies is an investigative action whose content is a repeated examination of a person regarding a fact provided in earlier testimony, and an examination of such fact on site, as well as a comparison of acquired results for the purpose of acquiring new information, or of examining previously acquired information, regarding the conditions of a case.

Section 174. Procedures for Conducting an On-site Examination

(1) An on-site examination of testimony shall be conducted with the participation of a previously examined person.

(2) During an on-site examination of testimony, a person shall testify in sequence regarding a fact characterised in his or her previous testimony, and such testimony shall be followed by an examination of such fact and an inspection of the location.

(3) If a contradiction between a testimony and a concrete fact is determined, the performer of an investigative action shall summon the person being examined to explain the reason for such contradiction.

Section 175. Presentation for Identification

(1) Presentation for identification is an investigative action whose content is the demonstration of an object to a victim, witness, suspect, or accused for the purpose of determining the identity thereof with the object that such person knew or detected earlier in conditions that are related to the event being investigated.

(2) A living person (on the basis of the external appearance, dynamic features, or voice thereof), corpse, item , document, animal or other object may be presented for identification.

Section 176. Examination prior to Presentation for Identification

Prior to the presentation of an object for identification, a person shall be examined regarding the conditions under which he or she perceived or detected the object to be identified, and regarding the characteristics and features of the object on the basis of which such person could identity such object. The inability of the person being examined to describe the characteristics and features of the object may not be a reason for refusing to conduct the presentation for identification.

Section 177. Procedures for Conducting a Presentation for Identification

(1) An object to be identified shall be presented together with at least two more objects. All the objects shall be mutually uniform, without drastic differences.

(2) The conditions under which a presentation for identification take place shall be as similar as possible to the conditions under which the identifier perceived the object to be identified in connection with the event being investigated, but the object to be identified shall, as far as possible, be in the state and form that such object was at the time when the object was first perceived.

(3) The placement of objects to be presented, or the order of the presentation thereof, shall be such that the identifier is unable to know beforehand the location of the object to be identified, and that he or she can fully perceive the characteristics and features thereof on the basis of which such object may be identified. A person to be presented for identification shall select, by him or herself, a place among the other persons to be presented.

(4) Objects to be presented shall be photographed, insofar as possible, or a sound and image recording shall be made of such objects.

(5) If the presentation of an actual object to be identified is not possible, a representation thereof may be presented that has been obtained with the assistance of photographic, video, or other scientific-technical means, and in which the characteristics and features thereof on the basis of which such object may be identified have been recorded.

(6) The provision referred to in Paragraph five of this Section shall also be complied with in cases where the object to be identified is rarely encountered, and where it is difficult to find two more mutually uniform objects.

(7) If an identifier indicates that one of the presented objects is the object to be identified, such identifier shall be invited to explain, in as much detail as possible, the characteristics and features on the basis of which he or she identified such object. The identified person shall be summoned to announce his or her given name and surname.

(8) In cases where special procedural protection has been specified for an identifier, and such protection is necessary for the safety thereof, identification shall be performed in compliance with the provision of Division Four of this Law.

(9) The procedures specified in Paragraph eight of this Section shall also be applied in cases where it is necessary, due to ethical or psychological considerations, that the person to be identified does not see the identifier.

Section 178. Presentation of Corpses for Identification

(1) One corpse shall be presented for identification, if necessary, after the relevant tending thereto.

(2) The clothing of a corpse shall be presented for identification separately in accordance with the procedures specified in Section 177 of this Law.

Section 179. Searches

(1) A search is an investigative action whose content is the search by force of premises, terrain, vehicles, and individual persons for the purpose of finding and removing the object being sought, if there are reasonable grounds for believing that the object being sought is located in the site of the search.

(2) A search shall be conducted for the purpose of finding objects, documents, corpses, or persons being sought that are significant in criminal proceedings.

Section 180. Decision regarding a Search

(1) A search shall be conducted with a decision of an investigating judge or a court decision. An investigating judge shall take a decision based on a proposal of a person directing the proceedings and materials attached thereto.

(2) A decision regarding a search shall indicate who will search and remove, where, with whom, in what case, and the objects and documents that will be sought and removed.

(3) In emergency cases where, due to a delay, sought objects or documents may be destroyed, hidden, or damaged, or a person being sought may escape, a person directing the proceedings may conduct a search with the consent of a public prosecutor.

(4) A decision regarding a search shall not be necessary in conducting a search of a person to be detained, as well as in the case specified in Paragraph five of Section 182 of this Law.

(5) A person directing the proceedings shall inform an investigating judge regarding the search indicated in Paragraph three of this Section not later than the next working day after the conducting thereof, presenting the materials that justified the necessity and emergency of the investigative action, as well as the minutes of the investigative action. The judge shall examine the legality and validity of the search. If the investigative action was conducted illegally, the investigating judge shall recognise the acquired evidence as inadmissible in criminal proceedings, and shall decide regarding the actions with the removed objects.

Section 181. Persons Present at a Search

(1) A search shall be conducted in the presence of the person at whose site the search takes place, or in the presence of a family member of legal age of such person. If the presence of the relevant person is not possible, or if such person avoids participation in the search, the search shall be conducted in the presence of the possessor, manager, or a representative of the local government of the object subjected to the search.

(2) A search in the premises of a legal person shall be conducted in the presence of a representative of the relevant legal person, and in the presence of the person in connection with the operations or inactions of whom the search is taking place in the premises of the legal person, if objective obstacles for conveying such person to the premises of the legal person do not exist. If the presence of the representative is not possible, of if the representative avoids participation in the search, the search shall be conducted in the presence of a representative of the local government.

(3) A search shall be conducted in the presence of a suspect or accused person if it takes place in the declared place of residence and work place of the referred to persons, except for the case where it is not possible due to objective reasons.

(4) In order to identify the objects being sought, a victim or witness may also be invited to a search.

(5) The rights of persons located at the site of a search to be present during the entire term of the operations of the performer of the investigative action, and to express the remarks thereof regarding such operations, shall be explained to such persons.

[19 January 2006]

Section 182. Procedures for Conducting a Search

(1) A performer of an investigative action, together with the persons present during the investigative action, is entitled to enter into the premises or geographical territory indicated in a decision regarding a search in order to find the objects, documents, corpse,

or person being sought mentioned in the decision. Guarding of the location of a search may be organised, if necessary.

(2) In commencing a search, the performer of the investigative action shall acquaint the person at whose site the search is taking place with the decision regarding the search. Such person shall sign regarding such acquainting in the decision. Then the performer of the investigative action shall summon such person to voluntarily issue the object being sought.

(3) If the person by whom a search is taking place refuses to open up the premises or storage facilities located at the site of the search, the performer of the investigative action is entitled to open such premises or storage facilities without causing unnecessary damage.

(4) Persons located at the site of a search may be prohibited from leaving such site, moving, or talking among themselves until the end of the investigative action. If such persons impede the conducting of the search with the actions thereof, such persons may be transported to other premises.

(5) A search of premises or a geographical territory may also include a search of the vehicles and persons located therein. If necessary, a search of a person may be conducted at the beginning and at the end of a search of premises or a geographical territory.

(6) During a search, the objects and documents referred to in a decision, as well as other objects and documents that may be significant in the case, shall be removed. If things that are prohibited from being kept are found during a search, such things shall be removed, indicating the reason for such action in the minutes.

(7) If a victim or witness present at a search recognises one of the found objects, such finding shall be indicated in the minutes.

(8) All objects found and removed in a search shall be presented to the persons present, described in the minutes, and, if possible, packaged and sealed.

(9) If a person directing the proceedings has assigned an expert or auditor present at a search to seize the objects found during the search and to perform the necessary exert examination or audit, the minutes of the search shall indicate such objects, the location and identifying features thereof, the fact of seizure, and the expert-examination institution or auditor under the liability of which the seize objects have been transferred.

(10) After the completion of a search, the location of the search shall be returned, insofar as possible, to the previous state thereof.

Section 183. Search of Persons

(1) If there are sufficient grounds for believing that objects or documents that are significant for criminal proceedings are located in the clothing of a person, in the property in his or her presence, on his or her body, or in the open cavities of his or her body, a search of such person may be conducted.

(2) A search of a person may be conducted only by an official of the same sex as such person, inviting a medical practitioner to be present if necessary, regardless of his or her sex.

Section 184. Search in the Premises of Diplomatic or Consular Representative Offices

(1) A search in the premises of a diplomatic or consular representative office, or in premises used by the parliamentary and governmental official delegations and missions of foreign states, may be conducted only on the basis of a request of the head of such representative office, delegation, or mission, or with his or her consent.

(2) A search of premises wherein reside the employees of the diplomatic representative offices of foreign states and other institutions of foreign states, as well as the members of the parliamentary and governmental official delegations and missions of foreign states who enjoy diplomatic immunity in accordance with the international agreements binding on Latvia, and the family members thereof, and a search of such employees, members, and the family members thereof, may be conducted only on the basis of a request thereof and with the consent thereof.

(3) A person directing the proceedings shall request the consent referred to in this Section with the intermediation of the Ministry of Foreign Affairs of the Republic of Latvia.

(4) The presence of a representative of the Ministry of Foreign Affairs is mandatory in the conducting of a search in the premises of a diplomatic or consular representative office.

Section 185. Issuance of a Copy of the Minutes of a Search

A copy of the minutes of a search shall be issued to the person at whose site such investigative action was conducted, or to another person referred to in Paragraphs one and two of Section 181 of this Law.

Section 186. Seizure

Seizure is an investigative action whose content is the removal of objects or documents significant to a case, if the performer of the investigative action knows where or by whom the concrete object or document is located and a search for such object or document is not necessary, or such object or document is located in a publicly accessible place.

Section 187. Decision regarding Seizure

(1) A seizure shall be conducted with the decision of a person directing the proceedings.

(2) A decision regarding a seizure shall indicate who will seize an object or document, where, with whom, in what case, and the objects and documents that will be seized.

Section 188. Seizure Procedures

(1) In commencing a seizure, the performer of the investigative action shall acquaint the person at whose site the seizure is taking place with the decision regarding the

seizure. Such person shall sign regarding such acquainting in the decision. Then the performer of the investigative action shall summon such person to voluntarily issue the object being seized.

(2) Seized objects or documents shall be described in the minutes of the seizure.

(3) A copy of the minutes of a seizure shall be issued, after the completion of the investigative action, to the person at whose site the seizure was conducted.

(4) If a person refuses to issue an object to be seized, or if the object or document to be seized cannot be found in the indicated location and there is reason to believe that such object or document is located elsewhere, a decision regarding the conducting of a search may be taken in accordance with the procedures specified in Section 180 of this Law, and the search may be conducted in order to find such object or document.

Section 189. Submission of Objects and Documents on the basis of the Initiative of a Person

(1) Persons are entitled to submit to a person directing the proceedings objects and documents that such persons believe may be significant in the criminal proceedings.

(2) The fact of submission shall be recorded in the minutes, which shall indicate the identifying features of the objects or documents, as well as an explanation by the submitter regarding the circumstances of the origination or acquisition of the object.

(3) If a person submits an object or document during an investigative action, such submission shall be recorded in the minutes of such investigative action.

(4) If it has been ascertained that a submitted object or document does not have any significance in criminal proceedings, such object or document shall be returned to the submitter.

Section 190. Submission of Objects and Documents Requested by a Person Directing the Proceedings

(1) A person directing the proceedings, without conducting the seizure provided for in Section 186 of this Law, is entitled to request from natural or legal persons, in writing, objects and documents that are significant to criminal proceedings.

(2) If natural or legal persons do not submit the objects and documents requested by a person directing the proceedings during the term specified by such person directing the proceedings, the person directing the proceedings shall conduct a seizure or search in accordance with the procedures specified in this Law.

(3) The heads of legal persons have a duty to perform a documentary audit, inventory, or departmental or service examination within the framework of the competence thereof and on the basis of a request of a person directing the proceedings, and to submit documents, within a specific term, together with the relevant additions regarding the fulfilled request.

(4) *[19 January 2006]*

[19 January 2006]

Section 191. Storage of Data located in an Electronic Information System

(1) A person directing the proceedings may assign, with a decision thereof, the owner or lawful possessor of an electronic information system (that is, a person who ensures the communication of persons with the assistance of an information system, or who processes or stores data within the framework of such service) to immediately ensure the storage, in an unchanged state, of the totality of the specific data necessary for the needs of an investigation that is located in the possession or under the control thereof, and the inaccessibility of such data to other users of the system.

(2) The duty to store data may be specified for a term of up to thirty days, but such term may be extended, if necessary, by an investigating judge by a term of up to thirty days.

Section 192. Disclosure of Data Stored in an Electronic Information System

A person directing the proceedings may request, based on a decision of an investigating judge or with the consent of a data subject, that the owner or lawful possessor of an electronic information system disclose the data stored in the information system.

Section 193. Expert-examination

An expert-examination is an investigative action performed by one or several experts under the assignment of a person directing the proceedings, and the content of which is the study of objects submitted to the expert-examination for the purpose of ascertaining facts and circumstances significant to criminal proceedings, regarding which the conclusion of the expert is provided.

Section 194. Grounds for Determining an Expert-examination

An expert-examination shall be determined in cases where the conducting of a study is necessary wherein special knowledge in a sector of science, technology, art, or craftsmanship is to be used in order to ascertain matters significant to criminal proceedings.

Section 195. Mandatory Expert-examinations

An expert-examination is mandatory in order to determine:

1) the cause of death, or the seriousness and nature of bodily injuries;

2) pregnancy or the fact of the artificial termination thereof;

3) features that indicate the committing of a sexual offence;

4) the age of a person, if age is significant in criminal proceedings but the relevant documents do not exist;

5) the mental state of a suspect or accused, or the mental state of a person regarding whom legal proceedings are taking place for the determination of compulsory measures of a medical nature, if the person directing the proceedings has justified doubts regarding the mental capacity of the relevant persons;

6) the ability of a person to adequately perceive and comprehend the facts significant in a case, and to testify regarding such facts, and the ability of such person to independently implement his or her rights and lawful interests in criminal proceedings, if justified doubts have arisen regarding such ability;

7) the authenticity of money and securities;

8) narcotic substances, psychotropic substances, and precursor substances;

9) the identity of a deceased person, if the exhumation of the corpse has taken place;

a weapon, ammunition, or explosives.

Section 196. Additional Expert-examination

(1) An additional expert-examination shall be determined if a person directing the proceedings agrees to the conclusion of an expert, yet there are uncertainties or deficiencies, or additional questions have arisen.

(2) The same expert may be assigned to perform the additional expert-examination.

Section 197. Repeated Expert-examination

(1) A repeated expert-examination shall be determined if a person directing the proceedings doubts the conclusion of an expert essentially due to invalidity, substantial deficiencies, or allowed errors of a methodical nature, as well as if the insufficient qualification or incompetence of the expert has been determined, or if substantial violations of the procedures for conducting an expert-examination have been allowed.

(2) Another expert of a commission of experts shall be assigned to conduct a repeated examination, placing the same objects of research, and the conclusion of the initial expert-examination, at the disposal of the expert or commission. The expert who conducted the initial expert-examination may be present during the conducting of the repeated expert-examination, without participating in the research.

Section 198. Expert-examination of a Commission of Experts

(1) An expert-examination of a commission of experts shall usually be determined in order to conduct the following:

1) an expert-examination, if the loss of the object to be studied, or substantial changes that exclude the possibility of a repeated study, are intended as a result of such expert-examination;

2) an expert-examination for identifying persons;

3) an expert-examination regarding an error of a medical practitioner in providing medical treatment.

(2) The head of an expert-examination institution may assign a commission of experts to perform any expert-examination.

(3) A person directing the proceedings shall establish a commission, with a decision thereof, from experts who do not work in one expert-examination institution.

(4) All the members of a commission of experts shall sign an expert-examination conclusion of the commission, but if there is disagreement among such members, each of the experts shall give his or her own conclusion.

Section 199. Complex Expert-examinations

(1) A complex expert-examination shall be determined, if, in order to ascertain matters significant to criminal proceedings, one object or several objects are to be investigated by experts of various sectors.

(2) Experts who conduct a complex expert-examination shall provide a joint conclusion.

(3) An expert who does not agree with a joint conclusion may provide a separate conclusion.

Section 200. Decision regarding the Determination of an Expert-examination

(1) A person directing the proceedings or a member of an investigative group shall take a decision regarding the determination of an expert-examination.

(2) A decision regarding the determination of an expert-examination shall indicate the following:

1) the reasons and grounds for the determination of the expert-examination;

2) the conditions that apply to the object to be studied;

3) the expert-examination institution, or the given name and surname of an expert of such institution, who has been assigned the performing of the expert-examination;

4) the assignment put forth for the expert, and the questions to be solved;

5) the materials transferred to the expert;

(3) In subjecting a living person to an expert-examination, a decision shall indicate his or her personal data.

(4) If an expert of an expert-examination institution conducts or participates in an investigative action under the assignment of a person directing the proceedings and removes objects subjected to further research, the person directing the proceedings may assign the same expert or the same expert-examination institution to conduct the expert-examination of such objects, recording such assignment and questions to be solved in the minutes of the investigative action. If necessary, the person directing the proceedings may assign additional questions to the expert-examination, and submit additional materials.

Section 201. Conducting of an Expert-examination in an Expert-examination Institution

(1) In assigning an expert-examination institution the conducting of an expert-examination, the decision regarding the determination thereof, the objects to be studied, and the necessary case materials shall be submitted to the head of such institution.

(2) If a decision does not indicate a concrete expert to whom the conducting of an expert-examination is to be assigned, or if an expert-examination institution whose expert

participated in or conducted an investigative action conducts an expert-examination under the assignment of a person directing the proceedings, the head of the expert-examination institution shall determine the expert, and notify the person directing the proceedings regarding such expert.

(3) The head of an expert-examination institution is not entitled to give an expert binding instructions that may influence the results of research and the essence of a conclusion, or to independently request additional materials, except medical documents, necessary for an examination without co-ordination with a person directing the proceedings.

Section 202. Executor of an Expert-examination – Invited Expert

(1) In assigning the conducting of an expert-examination to an expert who does not work at an expert-examination institution, a person directing the proceedings shall select a specialist and:

1) verify regarding his or her character and competence;

2) ascertain that there are no obstacles that might prevent him or her from conducting the expert-examination;

3) submit to the expert a decision regarding the determination of the expert-examination, the object to be studied, and all the necessary materials;

4) explain to him or her the rights and duties of an expert;

5) notify him or her regarding the liability for refusing to conduct an expert-examination and for consciously providing a false conclusion;

6) if necessary, explain the procedures for drawing up an expert-examination conclusion.

(2) An expert shall certify with the signature thereof that he or she has been familiarised with a decision. The reports and applications of the expert that the person directing the proceedings may reject with a decision thereof shall be noted in the same place.

(3) A person directing the proceedings shall ensure the transfer of all objects of an expert-examination to an expert, ensuring, if necessary, the presence of the person subjected to the expert-examination.

(4) The assignment of a person directing the proceedings given to an expert shall simultaneously impose a duty on the employer of the expert to not create obstacles for the conducting of the expert-examination.

Section 203. Expert Conclusion

(1) An expert shall give a written conclusion, which he or she shall certify with the signature thereof.

(2) An expert shall indicate the following in a conclusion:

1) his or her given name and surname;

2) the position to be held;

3) information regarding his or her qualification;

4) the decision or assignment with which the expert-examination was determined;

5) the date of the conducting of the expert-examination;

6) the persons present;

7) the utilised case materials, and the initial data of the object studied;

8) the methods utilised in the research, and the acquired results;

9) the reasoned answers to assigned questions, or the reasons due to which an answer is not possible;

10) other conditions significant to criminal proceedings, which the expert has ascertained on the basis of the initiative thereof.

(3) If an expert cannot give a specific and firm answer to a question, a conclusion regarding the possibility of the fact to be ascertained shall be allowed. The expert shall indicate the degree of certainty of such possibility, if such degree may be scientifically justified.

(4) Images and other objects or materials shall be appended to the conclusion of an expert.

Section 204. Use of Compulsory Measures in Conducting an Expert-examination

(1) In order to ensure a court psychiatric or psychological expert-examination of a detained person, suspect, or accused, or the conducting of an expert-examination related to an examination of his or her body, compulsory measures may be used, if necessary.

(2) A court psychiatric or psychological expert-examination of a witness, victim, or a person against whom criminal proceedings have been initiated, or an expert-examination related to an examination of his or her body, may be conducted by force only with a decision of an investigating judge, and only in the case where the conditions to be proven in criminal proceedings cannot be ascertained without such expert-examination.

Section 205. Report regarding the Impossibility of Providing an Expert Conclusion

If an expert verifies, before the commencement of a study, that he or she will not be able to answer the questions assigned in a decision because he or she does not have the relevant special knowledge, the relevant research methods, or the objects of research are insufficient or of poor quality, or due to other substantial circumstances, he or she shall write a motivated decision regarding such circumstances, which he or she shall transfer to a person directing the proceedings.

Section 206. Samples Necessary for a Comparative Study

In order to ensure an expert with the possibility to answer assigned questions, a person directing the proceedings may take, or assign the expert to take, samples necessary for a comparative investigation that reflect the characteristics and features of the object of study of the expert-examination.

Section 207. Persons from whom Samples for a Comparative Study are Taken

(1) Samples for a comparative study may be taken from a detained person, suspect, accused, or a person against whom criminal proceedings are taking place regarding the determination of compulsory measures of a medical nature.

(2) In order to ascertain whether traces on objects, or circumstances significant in criminal proceedings, have arisen as a result of the activities of other persons, samples may also be taken from such persons, examining such persons accordingly as victims or witnesses.

Section 208. Procedures for Taking Samples Necessary for a Comparative Study

(1) A person directing the proceedings or an expert under the assignment thereof may take samples necessary for a comparative study.

(2) If samples necessary for a comparative study are taken from a person with the consent thereof, such taking shall be recorded in compliance with the provisions of Section 142 of this Law.

(3) The taking of samples necessary for a comparative study, if such samples are not obtained from a person, shall be conducted as a separate investigative action. Such taking may also be conducted during the course of another investigative action, compulsorily recording the relevant operations in the minutes.

Section 209. Taking of Samples by Force Necessary for a Comparative Study

(1) A detained person, a suspect and an accused have a duty to allow the taking of samples from him or her for comparative study, but from persons against whom criminal proceedings have been commenced, and from a witness and victim the samples necessary for a comparative study may be taken by force only with a decision of an investigating judge.

(2) In emergency cases where samples necessary for a comparative study may be destroyed or damaged due to a delay, a person directing the proceedings may take such samples forcibly with the consent of a public prosecutor. The person directing the proceedings shall notify the investigating judge regarding such taking by force not later than the next working day after the conducting of the investigative action, presenting the materials that justified the necessity and emergency thereof, as well as the minutes of the investigative action. The judge shall examine the legality and validity of the investigative action.

[17 May 2007]

Chapter 11
Special Investigative Actions

Section 210. Provisions for Performing Special Investigative Actions

(1) The special investigative actions provided for in this Chapter shall be performed if, in order to ascertain conditions to be proven in criminal proceedings, the acquisition of information regarding facts is necessary without informing the person involved in the criminal proceedings and the persons who could provide such information.

(2) Persons directing the proceedings, or the institutions and persons under the assignment thereof, shall perform special investigative actions based on a decision of an investigating judge. If the utilisation of the means and methods of an investigative action are necessary for the actualisation of such action, the performance of such operation shall be assigned only to State institutions specially authorised by Law (hereinafter in this Chapter – specialised State institution).

(3) The performance of a special investigative action shall be permitted only in investigating serious or particularly serious crimes.

Section 211. Information Acquired as a Result of Special Investigative Actions

(1) During the course of a special investigative action, only information acquired in connection with serious or particularly serious crimes shall be recorded that:

1) is necessary for ascertaining conditions to be proven in criminal proceedings;

2) indicates the committing of another criminal offences, or the conditions of the committing thereof;

3) is necessary for preventing immediate and significant threats to public safety.

(2) A person directing the proceedings, his or her involved persons, a public prosecutor, and the investigating judge who supervises special investigative actions shall perform all the necessary measures in order not to allow for a gathering and utilisation of information that are not in conformity with the purposes specified in Paragraph one of this Section.

Section 212. Permission for the Performance of Special Investigative Actions

(1) Special investigative actions shall be performed based on a decision of an investigating judge.

(2) A decision of an investigating judge shall not be necessary if all the persons who will work or live in the publicly inaccessible location during the performance of a special investigative action agree to the performance of such operation.

(3) Within the meaning of this Chapter, locations that one may not enter, or wherein one may not remain, without the consent of the owner, possessor, or user are publicly inaccessible.

(4) In emergency cases, a person directing the proceedings may commence special investigative actions by receiving the consent of a public prosecutor, and, not later than the next working day, a decision of an investigating judge.

Section 213. Decision regarding the Performance of a Special Investigative Action

(1) An investigating judge shall take a decision regarding the performance of a special investigative actions after the substantiated proposal of a person directing the proceedings, and the materials of the criminal case, have been reviewed.

(2) A decision shall indicate a special investigative action, the institutions or persons to which the performance of such operation has been assigned, the purpose and allowed duration of the performance thereof, and all other conditions that have significance in the ensuring of the operation to be performed.

(3) The duration of a special investigative action to be performed in a publicly inaccessible location shall not exceed 20 days. An investigating judge may extend such term, if there are grounds for such extension.

Section 214. Consequences of Violating the Procedures for Receiving Permission

(1) If a person directing the proceedings has not complied with the procedures for receiving permission specified in this Section, the evidence acquired as a result of a special investigative action shall not be used in the evidence process.

(2) If a special investigative action has been commenced in accordance with the procedures provided for in Paragraph four of Section 212 of this Law, an investigating judge shall decide regarding the justification of the commencement of such investigative action, as well as the necessity for continuing such operation, if such operation has not been completed. If the investigative action was not justified, or was performed illegally, the judge shall decide regarding the admissibility of the acquired evidence, and regarding actions with seized objects.

Section 215. Types of Special Investigative Actions

(1) The following special investigative actions shall be performed in accordance with the provisions of this Chapter:

1) control of legal correspondence;

2) control of means of communication;

3) control of data in an electronic information system;

4) control of the content of transmitted data;

5) audio-control of a site or a person;

6) video-control of a site;

7) surveillance and tracking of a person;

8) surveillance of an object;

9) a special investigative experiment;

10) the acquisition in a special manner of the samples necessary for a comparative study;

11) control of a criminal activity;

(2) In order to perform the investigative actions provided for in Paragraph one of this Section, or to arrange the technical means necessary for the ensuring thereof, the entering

of publicly inaccessible places shall be permitted if an investigating judge has permitted such entering with a decision thereof.

Section 216. Recording of Special Investigative Actions

(1) A person directing the proceedings shall write up minutes if he or she performs a special investigative action by him or herself.

(2) If a specialised State institution performs a special investigative action, a representative thereof shall write an account, and submit such account, together with the materials obtained as a result of such operation, to a person directing the proceedings.

(3) If another person performs a special investigative action under the assignment of a person directing the proceedings, such person shall submit an account in writing to the person directing the proceedings, and submit to him or her the materials obtained as a result of such operation.

(4) A performer of a special investigative action shall do everything possible so that the facts of interest to the investigation are recorded with technical means.

(5) A person directing the proceedings shall inform the institution that has jurisdiction in the investigation of another criminal offence regarding information that indicates the relevant criminal offence or the circumstances of the committing thereof.

(6) A person directing the proceedings or a specialised institution shall immediately notify State security institutions regarding information that is necessary for the prevention of immediate substantial threats to public safety.

Section 217. Correspondence Control

(1) Postal institutions, or persons who provide consignment delivery services, shall perform control of a consignment placed under the liability thereof, without information of the sender and addressee, based on a decision of an investigating judge, if there are grounds for believing that the consignment contains or may contain information regarding facts included in the circumstances to be proven, and if the acquisition of necessary information is impossible or hindered without such operation.

(2) Postal institutions, or person who provide consignment delivery services, shall inform the official referred to in a decision regarding the fact that a consignment subjected to control is at the disposal of such official. Officials shall familiarise themselves with the contents of a consignment immediately, but not later than within a term of 28 hours from the moment of the receipt of information, and shall decide regarding the seizure of such consignment, or the further delivery thereof with or without the copying, photographing, or other recording of the content thereof. In all cases, an official shall write up a consignment inspection protocol in the presence of a representative of the deliverer.

(3) A consignment shall be seized only if there are grounds for believing that during the proving process the original thereof will have substantially larger significance than a copy or a visual recording.

(4) If a consignment is seized or a seized consignment is transferred to the addressee or deliverer with a substantial delay, he or she shall be informed regarding the reasons for

the delay of the consignment and the basis for the control, without harming the interests of criminal proceedings, insofar as possible.

(5) [17 May 2007]

[17 May 2007]

Section 218. Control of Means of Communication

(1) The control of telephones and other means of communications without the knowledge of the members of a conversation or the sender and recipient of information shall be performed, based on a decision of an investigating judge, if there are grounds for believing that the conversation or transferred information may contain information regarding facts included in circumstances to be proven, and if the acquisition of necessary information is not possible without such operation.

(2) The control of telephones and other means of communication with the written consent of a member of a conversation, or the sender or recipient of information, shall be performed if there are grounds for believing that a criminal offence may be directed against such persons or the relative thereof, or also if such person is involved or may be enlisted in the committing of a criminal offence.

Section 219. Control of Data Located in an Electronic Information System

(1) The search of an information system (a part thereof), the data stored therein, or the data environment, as well as the access thereto and the acquisition thereof (hereinafter – control of data in an information system) without the information of the owner, possessor, or maintainer of such system or data shall be performed, based on a decision of an investigating judge, if there are grounds for believing that the information located in the concrete information system may contain information regarding facts included in circumstances to be proven.

(2) If there are grounds for believing that sought data (information) is being stored in a system, located in another territory of Latvia, that may be accessed in an authorised manner by using the system referred to in a decision of an investigating judge, a new decision shall not be necessary.

(3) A person directing the proceedings may request, for the commencement of an investigative action, that the person who oversees the functioning of a system or performs duties related to data processing, storage, or the ensuring of transmission (hereinafter – responsible employee of a system) provide the necessary information, as well as shall notify such person regarding the non-disclosure of an investigative secret.

(4) In performing a control of data in an information system under the assignment of a person directing the proceedings, the responsible employee of the system has a duty to take over or otherwise ensure the system (a part thereof, the data-storage environment thereof), prepare copies of data, preserve unchanged essential stored data, ensure the entirety of information resources located in the system, and render the data to be control inaccessible to other users, or prohibit the performance of other actions with such data.

Section 220. Control of the Content of Transmitted Data

The interception, collection and recording of data transmitted with the assistance of an information system using communication devices located in the territory of Latvia (hereinafter – control of transmitted data) without the information of the owner, possessor, or maintainer of such system shall be performed, based on a decision of an investigating judge, if there are grounds for believing that the information obtained from data transmission may contain information regarding facts included in circumstances to be proven.

Section 221. Audio-control or Video-control of a Site

The audio-control of a publicly inaccessible site without the information of the owner, possessor, and visitors of such site shall be performed, based on a decision of an investigating judge, if there are grounds for believing that the conversations, other sounds, or occurrences taking place at such site, may contain information regarding facts included in circumstances to be proven. The audio-control or video-control of a publicly inaccessible site shall be performed only if the acquisition of necessary information is not possible without such operation.

Section 222. Audio-control of a Person

(1) The audio-control of a person without the information of such person shall be performed, based on a decision of an investigating judge, if there are grounds for believing that the conversations, or other sounds, of the person may contain information regarding facts included in circumstances to be proven, and if the acquisition of necessary information is not possible without such operation.

(2) The audio-control of a person with the written consent of such person, based on a decision of a person directing the proceedings, shall be performed if there are grounds for believing that a criminal offence may be directed against such person or the relatives thereof, or if such person is involved in, or may be enlisted in, the committing of a criminal offence.

Section 223. Surveillance and Tracking of a Person

(1) Surveillance and tracking of a person without the information thereof shall be performed, based on a decision of an investigating judge, if there are grounds for believing that the behaviour of the person, or his or her contact with other persons, may contain information regarding facts included in circumstances to be proven.

(2) An investigating judge shall indicate in a decision whether the rights are granted to continue with the surveillance and tracking, for a term of up to 48 hours, of other persons who have been in contact with a person to be placed under surveillance.

Section 224. Surveillance of an Object or a Site

Surveillance of an object or a site shall be performed, based on a decision of an investigating judge, if there are grounds for believing that information regarding facts included in circumstances to be proven may be acquired as a result of surveillance.

Section 225. Special Investigative Experiment

(1) A special investigative experiment shall be performed based on a decision of an investigating judge, if there are grounds for believing that:

1) a person has previously committed a criminal offence, and is preparing to commit, or has commenced, the same criminal activities;

2) a concrete criminal offence may be interrupted within the framework of initiated criminal proceedings;

3) information regarding facts included in circumstances to be proven may be obtained as a result of the experiment, and if the acquisition of necessary information is impossible or hindered without such activity.

(2) A special investigative experiment creates a situation or conditions, characteristic of the daily activities of a person, that promote the disclosure of criminal intent, and records the actions of the person in such conditions.

(3) The provocation of the actions of a person is prohibited, as is the influencing of a person with violence, threats, or blackmail, or the utilisation of the state of helplessness thereof.

(4) If a special investigative experiment concludes with the public recording of a criminal offence of a person, a protocol shall be written regarding such recording in the presence of the person.

Section 226. Acquisition of Comparative Samples in a Special Manner

(1) If the interests of proceedings require that it not be disclosed to a person that suspicions exist regarding his or her association with the committing of a criminal offence, samples for a comparative study may be obtained on the basis of a decision of an investigating judge without informing the relevant person regarding the obtaining thereof.

(2) Samples that may be obtained repeatedly and which have the significance of evidence in criminal proceedings shall be seized publicly when there is no longer a necessity to keep the fact of study a secret.

Section 227. Control of Criminal Activity

(1) If, based on a decision of an investigating judge, a separate stage of a single criminal offence or mutually connected criminal offences is determined, but, in immediately discontinuing such stage, the opportunity to prevent another criminal offence, or ascertain all involved persons, especially the organisers and commissioning parties thereof, or all the purposes of the criminal activity, will disappear, control of the criminal activity may be performed.

(2) The determent of an interruption of a criminal offence for the purpose of control shall not be allowed if the complete prevention of the following is not possible:

1) threats to the life and health of people;

2) the spread of substances dangerous to the life of many people;

3) the escape of dangerous criminals;

4) an ecological catastrophe, or irreversible financial loss.

(3) If another special investigative actions must be performed for the purpose of a control of criminal activity, permission for the performance thereof shall be received in accordance with general procedures.

(4) Performers of a control shall submit accounts to a person directing the proceedings in accordance with the course of a special investigative action, but not more rarely than specified in a decision.

Section 228. Measure for Ensuring Special Investigative Actions

(1) In order to ensure a special investigative action, the officials and persons involved in such special investigative action may use information and documents specially prepared beforehand, organisations or undertakings specially established beforehand, imitations of objects and substances, specially prepared technical means, as well as imitate participation in the committing of a criminal offence, or participation in the manner of a supporter.

(2) In imitating a criminal activity, it shall not be permitted to threaten the life and health of people, or to cause any losses, if such losses are not absolutely necessary for the disclosure of a more serious and more dangerous crime.

(3) A person shall be responsible in accordance with general procedures for the utilisation of the security measures referred to in Paragraph one of this Section outside of the framework necessary for the performance of a special investigative action.

Section 229. Utilisation of the Results of Special Investigative Actions in Proving

(1) The protocols, accounts, sound and image recordings, photographs, other results recorded with technical means, and seized objects and documents or the copies thereof of special investigative actions shall be used in proving in the same way as the results of other investigative actions.

(2) If secretly recorded expressions or activities of a person are used in proving, such person shall compulsorily be examined regarding such expressions or activities. When a person is acquainted with facts that have been acquired without his or her knowledge, such person shall be informed regarding the performed secret operation insofar as such operation directly affects the relevant person.

(3) If a special investigative action was performed without complying with the provision for receiving permission, the acquired information shall not be used in proving.

[28 September 2005]

Section 230. Utilisation of the Results of Special Investigative Actions for Other Purposes

(1) Evidence obtained as a result of special investigative actions shall be used only in the criminal proceedings wherein the relevant operations were performed. If acquired information regarding facts that indicates the committing of another criminal offence, or the circumstances to be proven in another criminal proceedings, such information may be

utilised as evidence in the relevant case only with the consent of the public prosecutor or investigating judge who supervises special investigative actions in the criminal proceedings wherein the relevant operation was performed. Such restriction is not applicable to the utilisation of supporting evidence within the framework of another criminal proceedings.

(2) A decision of an investigating judge or public prosecutor shall not be necessary if information acquired as a result of special investigative actions is utilised in order to prevent an immediate and substantial threat to public safety.

Section 231. Familiarisation with Materials that are not Attached to a Criminal case

(1) Accounts regarding special investigative actions, as well as materials recorded with technical means that a performer has recognised do not have the significance of evidence in criminal proceedings, shall not be attached to a criminal case, and shall be stored at the institution that completed the pre-trial process.

(2) A person involved in criminal proceedings who has the right to familiarise him or herself with the materials of a criminal case after the completion of the pre-trial investigation may submit a proposal to a public prosecutor or investigating judge, requesting that he or she be familiarised with the unattached materials.

(3) A public prosecutor or investigating judge shall assess a proposal, taking into account the possible significance of materials in criminal proceedings and the allowed restrictions on human rights, and may prohibit the opportunity to become familiarised with unattached materials, if such familiarisation may substantially threaten the life, health, or interests protected by law of a person involved in criminal proceedings, or if such familiarisation affects only a private secret of a third person.

(4) A person involved in criminal proceedings who a public prosecutor or investigating judge has familiarised with materials unattached to a criminal case may submit a request to a person directing the proceedings regarding the attachment of such materials to the criminal case. The request shall be decided in accordance with the same procedures as other requests submitted after the completion of an investigation.

(5) The same composition of a court shall decide regarding a request, submitted during a trial, to become familiarised with the materials of a special investigative action unattached to a criminal case, familiarising itself with the request and the materials of the criminal case, and, if necessary, requesting explanations from submitter and public prosecutor.

Section 232. Actions with the Results of a Special Investigative Action that do not have the Significance of Evidence in Criminal Proceedings

(1) The public prosecutor or investigating judge who supervises special investigative actions in criminal proceedings shall decide regarding actions with accounts, audio-recordings and video-recordings, photographs, other materials that have been recorded utilising technical means, and seized objects and documents and the copies thereof, if a performer of proceeding has recognised that such objects and documents do not have the

significance of evidence in criminal proceedings, in such a way that the consequences of injury to human rights are reduced as far as possible.

(2) Seized documents and objects shall, if possible, be returned to the owners, informing such owners regarding the special investigative action insofar as such operation affects such persons.

(3) Accounts, copies, and materials that were recorded using technical means shall be destroyed, if it is ascertained that such accounts, copies, or materials do not have the significance of evidence in criminal proceedings.

(4) In criminal proceedings wherein the persons who are to be held criminally liable have not been ascertained, actions with the materials referred to in this Section may be decided not earlier than six months after the completion of a special investigative action.

(5) In completed criminal proceedings, actions with such materials may be decided after the completion of the term for appealing a decision.

(6) In criminal proceedings that have been transferred to a court for adjudication, actions with the referred to materials shall be decided after the coming into effect of the court adjudication.

Section 233. Measures for Protecting Information in Criminal Proceedings

(1) Information regarding the fact of the performance of a special investigative action shall, until the completion thereof, be confidential investigative data regarding the disclosure of which officials or persons who are involved in the performance thereof shall be responsible in accordance with the law. A representative who has the right to familiarise him or herself with all the materials of a criminal case from the moment of the issuance of prosecution shall not be familiarised with the documents that apply to a special investigative action until the completion of such investigative action.

(2) A person directing the proceedings shall use all the measures provided for by law in order to restrict the spread of information that has been acquired as a result of a special investigative action and that has the significance of evidence in criminal proceedings, if such information affects a private secret of a person or affects other restricted-access information protected by law.

(3) Preparation of copies of materials obtained as a result of a special investigative action shall be allowed only in the cases provided for by law, making a note thereof in the protocol of the relevant operation.

Section 234. Measures for the Protection of Information included in Materials Not Attached to a Criminal case

(1) The methods, techniques, and means for the performance of a special investigative action, as well as the information acquired as a result thereof that does not have the significance of evidence in the criminal proceedings in which such operation was performed, or the utilisation of which in another criminal proceedings is not permitted, or which is not necessary for the prevention of an immediate and substantial threat to public safety, shall be a State or investigative secret, and persons shall be held

liable for the disclosure thereof in accordance with the procedures specified in the Criminal Law.

(2) A person directing the proceedings shall notify persons who are involved in the performance of special investigative actions regarding the liability provided for in Paragraph one of this Section. If the performance of special investigative actions is the professional duty of a person, his or her employer shall ensure report.

(3) A public prosecutor or investigating judge shall notify persons who are being familiarised with the materials not attached to a criminal case regarding liability.

(4) In deciding regarding actions with materials not attached to a criminal case, a public prosecutor and investigating judge shall examine whether all person have been notified and whether the necessary measures have been performed in order to prevent the spread of unjustified information, and shall assign tasks for the rectification of deficiencies.

Chapter 12
Actions with Material Evidence and Documents

Section 235. Attachment of Material Evidence or Documents to a Case

(1) A person directing the proceedings shall register materials and documents obtained during the course of investigative actions in the list of material evidence and documents in criminal proceedings, if there are grounds for believing that such materials and documents may have the significance of evidence in the subsequent criminal proceedings.

(2) Materials and documents obtained during the course of investigative actions, but which, as determined by subsequent proceedings, do not have the significance of evidence in criminal proceedings, shall be immediately returned to the owner or lawful possessor thereof, who shall sign for such materials or documents, or another activity specified in the Law shall be decided, making a note of such decision in the list of material evidence and documents.

(3) The originals of documents permanently stored in the collections of the State Archives shall be seized during the course of investigative actions only for the performance of a technical or handwriting expert-examination on the documents, but in other cases certified copies of case materials are to be attached to such case materials.

Section 236. List of Material Evidence and Documents

A person directing the proceedings shall indicate the following in a list of material evidence and documents:

1) the name of a piece of material evidence or a document;

2) the date when such material evidence or document was obtained, and the investigative action wherein such material evidence or document was obtained;

3) storage location;

4) the date and definitive action with the material evidence or document.

Section 237. Storage of Material Evidence

(1) Material evidence that may not be stored together with other criminal-case materials shall be stored in premises intended specially for such purpose. If such condition is not able to be fulfilled, such evidence may be stored in the institutions specified by the Cabinet, or also in another location in accordance with the procedures specified by the Cabinet, if the storage thereof is ensured until the final adjudication of the matter regarding subsequent actions with the concrete material.

(2) If such materials are necessary for achieving the legal aims of the owner or lawful possessor thereof, such materials may be returned to him or her completely or for a term, if such returning of materials is not harmful to the subsequent criminal proceedings.

(3) Money, securities, jewellery, precious metals and precious stones, poisonous, narcotic, and psychotropic substances, precursors, radioactive materials and other materials of strategic significance, as well as weapons, ammunition, and explosives, if such materials have the significance of material evidence, shall be transferred for storage to the special institutions specified by the Cabinet.

(4) In transferring criminal-case materials to another person directing the proceedings, material evidence may be left in storage in the location specified for the storage of material evidence by the first person directing the proceedings.

Section 238. Document Storage

(1) The originals of documents shall be immediately returned to the owner or lawful possessor thereof after the necessary investigative actions have been performed with such documents, but the copies of case materials are to be attached to such case materials.

(2) If the returning of the originals of document to the owner of lawful possessor thereof may be harmful to subsequent criminal proceedings, or if there are justified suspicions that such documents may be used for achieving illegal aims after the return thereof, copies of the documents shall be transferred to the owner or lawful possessor of such documents, but the originals of the documents shall be attached to case materials and stored together with the case during the entire term of storage thereof.

Section 239. Terms for the Storage of Material Evidence and Documents

(1) Material evidence and documents shall be stored until a court judgment enters into effect or the term up until which a decision regarding the termination of criminal proceedings may be appealed ends.

(2) If there is a dispute, to be examined in accordance with civil procedures, regarding rights to a seized material, material evidence and documents shall be stored until a court judgment in a civil case enters into effect, or a prescriptive period for claims sets in.

(3) Material evidence the long-term storage of which is not possible, and which may not be returned to the owner or lawful possessor thereof, or the long-term storage of which causes losses to the State, shall be put up for sale or destroyed with a decision of a person directing the proceedings in accordance with the procedures specified by the Cabinet.

(4) The decision of a person directing the proceedings indicted in Paragraph three of this Section may be appealed in a pre-trial investigation to the investigating judge in accordance with the procedures specified in this Law.

Section 240. Definitive Action with Material Evidence and Documents

(1) A judgment or decision regarding the termination of criminal proceedings shall indicate what shall be done with material evidence and documents, in particular:

1) materials, documents, and valuable shall be returned to the owner or lawful possessor thereof;

2) the tools of a criminal offence owned by a suspect or accused shall be confiscated;

3) criminally obtained valuable, materials, and documents shall be confiscated;

4) materials the circulation of which is forbidden shall be transferred to the relevant institutions, or destroyed;

5) materials that do not have any value shall be issued to interested person on the basis of a request thereof, or destroyed.

(2) If material evidence must be returned to the owner or lawful possessor thereof, yet it is not possible to do so, the owner shall be compensated with an object of the same sort and the same quality, or also paid the value that exists at the moment of compensation.

Division Three
Procedural Compulsory Measures and Sanctions

Chapter 13
General Provisions for the Application of Compulsory Measures

Section 241. Grounds for the Application of a Procedural Compulsory Measure

(1) Grounds for the application of a procedural compulsory measure shall be the resistance of a person to the reaching of the aim of criminal proceedings in concrete proceedings or to the performance of a separate procedural action, or his or her non-execution, or improper execution, of procedural duties.

(2) A security measure shall be applied as a procedural compulsory measure to a suspect or an accused if there are grounds for believing that the relevant person will continue criminal activities, or avoid an investigation and court.

(3) In making a judgment, a court may apply a security measure to an accused if there are grounds for believing that he or she may avoid the execution of the judgment.

Section 242. Procedural Compulsory Measures

(1) In order to ensure criminal proceedings, the rights of a person may be restricted with the following procedural compulsory measures:

1) detention;

2) placement in a medical institution for the performance of an expert-examination;

3) conveyance by force.

(2) Security measures are also procedural compulsory measures. Such measures may be applied only to a suspect or accused.

Section 243. Detention Orders

(1) The following are security measures:

1) report of the address for receiving consignments;

2) prohibition from approaching a specific person or location;

3) prohibition from a specific employment;

4) prohibition from departing from the State;

5) residence in a specific place of residence;

6) personal bail;

7) security deposit;

8) placement under police supervision;

9) house arrest;

10) arrest;

(2) The following may also be applied to a minor as a security measure:

1) placement under the supervision of parents or guardians;

2) placement in a social correctional educational institution.

(3) Placement under the supervision of a unit commander (supervisor) may be applied to a soldier as a security measure.

(4) The security measures referred to in Paragraph one, Clauses 1-4 of this Section may also be applied additionally to any other security measure.

Section 244. Selection of Procedural Compulsory Measures

(1) A person directing the proceedings shall choose a procedural compulsory measure that infringes upon the basic rights of a person as little as possible, and is proportionate.

(2) In selecting a security measure, a person directing the proceedings shall take into account the nature and harmfulness of a criminal offence, the character of the suspect or accused, his or her family situation, health, and other conditions.

(3) A procedural compulsory measure may not be applied to a victim who is a minor.

Section 245. Decision regarding the Application of a Procedural Compulsory Measure

(1) A procedural compulsory measure, with the exception of detention, is applied by a person directing the proceedings or an investigating judge with a motivated written decision that indicates:

1) the person to whom the compulsory measure is to be applied;

2) grounds for the application of the procedural compulsory measure;

3) the type of compulsory measure;

4) *[19 January 2006]*

5) the institution or person to whom the execution of the decision has been assigned;

6) the procedures for the appeal of the decision.

(2) A decision regarding the application of a compulsory measure shall additionally indicate the criminal offence in connection with the committing of which the compulsory measure is applied to a suspect or accused.

(3) An investigating judge shall take a decision, during pre-trial proceedings, regarding an arrest, house arrest, the placement of a minor in a social correctional educational institution, or the placement of a person in a medical institution for the performance of an expert-examination.

[19 January 2006]

Section 246. Application of a Procedural Compulsory Measure

(1) In commencing the application of a procedural compulsory measure, the person who applies such measure shall inform the person to whom the compulsory measure is applied regarding the taken decision, as well as explains the essence, content, and procedures for appeal of the compulsory measure, and the consequences of not complying with the compulsory measure.

(2) The person who implements the right to assistance of counsel is entitled to familiarise him or herself with the procedural documents wherein information is recorded regarding the facts that have been used in order to justify the application of a procedural compulsory measure. If such familiarisation threatens a pre-trial investigation or interests important to a third person or the public, such familiarisation may be deferred with a decision of a person directing the proceedings until the prevention of the relevant threat.

Section 247. Informing of Other Persons regarding the Application of a Procedural Compulsory Measure

(1) If a procedural compulsory measure is related to the deprivation of the liberty of a person, a person directing the proceedings shall, in compliance with the will and instructions of such person, immediately inform the family or other close relatives of such person, and his or her workplace or place of study, regarding the application of such measure and the location of the relevant person.

(2) If the compulsory measure referred to in Paragraph one of this Section has been applied to a minor, a person directing the proceedings shall inform the parents or other close relatives of legal age of such minor, or the guardian of such minor if the relevant minor is under guardianship, regarding the application of such compulsory measure.

(3) If the compulsory measure referred to in Paragraph one of this Section has been applied to a foreign citizen, a person directing the proceedings shall, in compliance with the will of the relevant person, inform the representative office of the state of such

foreign citizen, with the intermediation of the Foreign Ministry of the Republic of Latvia, regarding the application of such compulsory measure.

Section 248. Protection of a Minor, a Dependant, or Property

(1) If, in applying to a person a procedural compulsory measure related to the deprivation of liberty, a minor, or a person under the guardianship or trusteeship of such person, is left without supervision and care, a person directing the proceedings shall provide such person with the opportunity to contact, with the intermediation of controlled communications, a close relative or another person regarding the ensuring of supervision and care. If the person does not have such opportunity, the person directing the proceedings shall inform authority protecting the rights of children, social institutions, or Orphan's Court (regional court).

(2) If, in applying to a person a procedural compulsory measure related to the deprivation of liberty, a property is left without supervision, a person directing the proceedings shall provide such person with the opportunity to contact, with the intermediation of controlled communications, a close relative or another person regarding the ensuring of the management of the property. If the person does not have such opportunity, on the basis of a request from such person the person directing the proceedings shall, with a decision, temporarily for a term not longer than three months, assign the protection of the property to the local government according to the location of the property in order to ensure the person an opportunity to agree regarding the further management of the property. The procedures for the protection and transfer of property shall be determined by the Cabinet. The financing for the protection of property shall be ensured from funds earmarked from the State budget specially for this purpose.

(3) If in applying to a person deprivation of liberty associated with a procedural compulsory measure, without supervision and care remains an animal and the person with the intermediation of controlled communications has not communicated with a close relative or another person regarding the ensuring the supervision and care thereof, as well as has not requested the person directing the proceedings to ensure the protection of property referred to in Paragraph two of this Section, the person directing the proceedings shall, with a decision, entrust the care of the animal left without supervision to the local government according to the location of the property or for action with such animal according to the procedures specified in regulatory enactments.

(4) A person directing the proceedings shall inform a person to whom a compulsory measure has been applied regarding performed measures in writing.

[19 January 2006; 17 May 2007]

Section 249. Modification or Revocation of a Procedural Compulsory Measure

(1) If, during the term of the application of a procedural compulsory measure, the grounds for the application of such measure disappear or change, the provisions for the application of such measure, or the behaviour of the person, change, or if other circumstances are ascertained that determine the selection of the compulsory measure, a

person directing the proceedings shall take a decision regarding the modification or revocation of such procedural compulsory measure.

(2) If a person violates the provision of an applied security measure, a person directing the proceedings is entitled to select and apply another more restricting security measure.

(3) A decision regarding the modification or revocation of a security measure shall be immediately notified to the institution or official who ensures the execution thereof, and to the person to whom such security measure has been applied.

(4) If a previously applied security measure is revoked as a result of the examination of a complaint, a more restricting security measure shall be applied only if new circumstances exist.

Chapter 14
Detention Orders not Related to Deprivation of Liberty

Section 250. Conveyance by Force

(1) If a suspect, accused, witness, or victim does not arrive without a justifying reason at a procedural action on the basis of a summons of a person directing the proceedings, conveyance by force may be applied to such person in order to ensure the participation thereof in the procedural action.

(2) Conveyance by force may also be applied to a suspect or accused without a previous summons, if his or her place of residence is unknown or if he or she is hiding from an investigation and court.

(3) Conveyance by force may be applied to pregnant women or acutely ill persons, if the fact of such pregnancy or acute illness has been certified by a physician, only if the performance of a procedural action is not possible at the location of the person, and only with a decision of an investigating judge or court.

Section 251. Procedures for Conveyance by Force

(1) Conveyance by force is applied with a decision of a person directing the proceedings that indicates who shall be conveyed, the official to whom such person shall be conveyed, and when and for what purpose such person shall be conveyed, as well as the police institution to which the conveyance by force has been assigned.

(2) Having found the person to whom conveyance by force must be applied, a police employee shall familiarise such person, in return for a signature, with a decision, deliver the relevant person to the official referred to in the decision, and record in the decision the time when such delivery was performed.

(3) If conveyance by force may not be applied, or if the person to be conveyed has not been found, a police employee shall record such fact in a decision, which shall be given to a person directing the proceedings.

Section 252. Report of the Address for the Receipt of Consignment

(1) Report of the address for the receipt of consignments is the written report of a suspect or accused regarding the postal or electronic address to which a suspect or accused undertakes to receive consignments within a term of 24 hours sent by officials performing criminal proceedings and to which he or she undertakes to arrive on the basis of a summons of a performer or proceedings, or perform other referred to criminal-procedural duties.

(2) If a consignment has been appropriately sent to a notified address, it shall be recognised that the addressee has received such consignment after the termination of the term referred to in Paragraph one of this Section.

Section 253. Prohibition for Approaching a Specific Person or Location

(1) Prohibition from approaching a specific person is a restriction upon a suspect or accused, provided for with a decision of a person directing the proceedings, from being located closer than the distance referred to in a decision from the relevant person, from having physical or visual contact with such person, and using means of communication, or techniques for transferring information, in order to make contact with such person.

(2) A prohibition from approaching a specific location is a restriction, provided for with a decision of a person directing the proceedings, upon a suspect or accused from visiting the relevant location, or being located closer than the distance referred to in the decision.

(3) Approaching a specific person or location shall not be recognised as a violation of the prohibition referred to in Paragraph one and two of this Section, if such approaching takes place within the framework of criminal proceedings, fulfilling the instructions of a person directing the proceedings.

Section 254. Prohibition on Specific Employment

(1) A prohibition on specific employment is a restriction upon a suspect or accused, specified with a decision of a person directing the proceedings, from performing a specific type of employment (activities) for a time, or from execution of the duties of a concrete position (job).

(2) A decision regarding a prohibition on specific employment shall be sent for execution to the employer of a person, or to another relevant authority.

(3) The decision referred to in Paragraph one of this Section is mandatory for any official, and shall be fulfilled within a term of three working days after the day of the receipt thereof. An official shall notify a person directing the proceedings regarding the commencement of the execution of a decision.

Section 255. Prohibition on Departure from the State

A prohibition on departure from the State is a restriction, specified by a decision of a person directing the proceedings, upon a suspect or accused from departing from the territory of Latvia without the permission of the person directing the proceedings.

Section 256. Residence in a Specific Place of Residence

Residence in a specific place of residence is the written obligation of a suspect or accused to not leave a concrete indicated place of residence or temporary residence for longer than 24 hours without the permission of a person directing the proceedings, as well as to arrive without delay on the basis of a summons of the person directing the proceedings, or to fulfil other criminal-procedural duties.

Section 257. Security Deposit

(1) A security deposit is a monetary sum, specified with a decision of a person directing the proceedings, that has been transferred to the depository (storage) of a credit institution specified by a person directing the proceedings in order to ensure the arrival of a suspect or accused on the basis of a summons of a person directing the proceedings, and the execution of other procedural duties specified in the Law.

(2) A person directing the proceedings shall determine the amount of a security deposit, observing the nature of a criminal offence and the harm caused by such offence, the financial status of a person, as well as the type and measure of a penalty specified in the Law.

(3) A security deposit may be paid by the person to whom such security measure has been applied, as well as by any other natural person or legal person. If a security deposit is paid by another person, a person directing the proceedings shall inform such person regarding the essence of the concrete criminal proceedings in connection with which such security measure has been applied, and shall explain the consequences that will come about if such security measure is not complied with.

(4) The provider of the payment of a security deposit shall submit to a person directing the proceedings a document that shall be attached to a criminal case.

(5) If a suspect or accused does not fulfil procedural duties or commits a new intentional criminal offence, a security deposit shall be paid to the State budget with a decision of a person directing the proceedings, but in other cases of the modification or revocation of a security measure, such security deposit shall be returned to the provider thereof.

Section 258. Personal Bail

(1) A personal bail is a written obligation with which a natural person guarantees that a suspect or accused will arrive on the basis of a summons of a person directing the proceedings, and will fulfil other procedural duties.

(2) There shall be not less than two personal warrantors.

(3) In accepting a bail, a person directing the proceedings shall inform the warrantors regarding the essence of the concrete criminal proceedings in connection with which a security measure has been applied, and shall explain the consequences that will come about if the provisions of such security measure are not complied with.

(4) If the provisions of a security measure are violated, a pecuniary penalty shall be imposed on a warrantor, with a decision of an investigating judge or a court decision, in the amount of 10 to 30 of the minimal monthly wage specified in the Republic of Latvia.

Section 259. Placement of a Soldier under the Supervision of a Unit Commander (Supervisor)

(1) The placement of a soldier under the supervision of a unit commander (supervisor) is a written obligation of the unit commander (supervisor), in accordance with a decision of a person directing the proceedings, regarding the application of a security measure to ensure that a suspected or accused soldier will arrive on the basis of a summons of a person directing the proceedings, and fulfil other procedural duties.

(2) The placement of a soldier under the supervision of a unit commander (supervisor) shall be applied only with the consent of the unit commander (supervisor), and he or she may withdraw from the supervision of the soldier at any time.

(3) In receiving a written obligation from a unit commander (supervisor) regarding the taking of a soldier under supervision, a person directing the proceedings shall inform him or her regarding the essence of the concrete criminal proceedings in connection with which such security measure has been applied, as well as his or her liability.

(4) If a suspect or accused does not fulfil his or her obligations, the unit commander (supervisor) under the supervision of whom he or she is located, an investigating judge, or the court may impose a pecuniary penalty up to the amount of 10 of the minimal monthly wage specified in the Republic of Latvia.

Section 260. Placement of a Minor under the Supervision of Parents or Guardians

(1) The placement of a minor under the supervision of parents or guardians is a written obligation of one person or several of such persons, in accordance with a decision of a person directing the proceedings, regarding the application of a security measure to ensure that the suspected or accused minor will arrive on the basis of a summons of a person directing the proceedings, and fulfil other procedural duties.

(2) Placement under the supervision of parents or guardians shall be applied only with the consent of such persons and the minor him or herself.

(3) In placing a minor under the supervision of parents or guardians, a person directing the proceedings shall inform such persons regarding the essence of the concrete criminal proceedings in connection with which a security measure has been applied, and shall explain the consequences that will come about if the provisions of such security measure are not complied with.

(4) Parents or guardians may withdraw from the supervision of a minor at any time, if such persons are not able to ensure the proper behaviour of the minor..

(5) If a suspect or accused, who is a minor does not fulfil his or her procedural duties, an investigating judge or a court may impose a pecuniary penalty of up to the amount of 10 of the minimal monthly wage specified in the Republic of Latvia upon the persons under whose supervision the minor is located.

Section 261. Placement under Police Supervision

(1) Placement under police supervision is the relocation and the restriction of the discretionary power of a suspect or accused with the provision that the relevant person

shall not change his or her permanent or temporary place of residence without the permission of a person directing the proceedings, visit the locations or institutions referred to in the decision, meet with the persons referred to in the decision, that such person shall be located in his or her place of residence during specific hours of the day, and that he or she shall declare him or herself not more than 3 times per week at the police institution according to the place of residence thereof. Restrictions shall be determined taking into account the work or study conditions of a suspect or accused.

(2) A decision regarding the application of a security measure shall be sent for execution to the police institution in the territory of which the person resides.

(3) A police institution shall immediately register a person to be supervised and inform a person directing the proceedings regarding the taking of such person under supervision.

(4) In order to examine the compliance of a person with a restriction on freedom of movement and discretionary power, a police employee has the right to enter the permanent or temporary place of residence (apartment, house) thereof.

Section 262. Appeal of a Decision regarding the Application of a Detention Order

(1) During pre-trial proceedings, a decision taken by a person directing the proceedings regarding the following may be appealed:

1) prohibition from approaching a specific person or location;

2) prohibition on a specific employment;

3) prohibition on departure from the State;

4) amount of a security deposit;

5) placement under police supervision, but only in relation to restrictions on movement and action indicated in the decision.

(2) If a person to whom a security measure has been applied may justify that the provisions of such security measure cannot be fulfilled by such person, the person, as well as the defence counsel or representative thereof, is entitled to submit a complaint regarding the decision to an investigating judge within a term of seven days after the receipt of a copy of the decision regarding the application of the security measure.

(3) An investigating judge shall examine a complaint by way of written procedure within a term of three working days. If necessary, the judge shall request court materials, and explanations of a person directing the proceedings or the submitter of the complaint.

(4) An investigating judge may, with a decision thereof, reject a complaint or assign a person directing the proceedings to modify an applied security measure or the provisions thereof within a term of three working days.

(5) A copy of a decision taken by an investigating judge shall be sent to a person directing the proceedings, the person to whom the relevant security measure has been applied, and the submitter of the complaint. The decision shall not be appealed.

Chapter 15
Compulsory Measures Related to the Deprivation of Liberty

Section 263. Arrest

Arrest is the deprivation of the liberty of a person, for a term of up to 48 hours, without a decision of an investigating judge, if there exist provision for an arrest.

Section 264. Provisions of an Arrest

(1) A person may be arrested only if there are grounds for the allegation regarding the committing of a criminal offence regarding which a penalty related to the deprivation of liberty may be applied, and if there exists one of the following provisions:

1) the person was surprised precisely at the moment of the committing of a criminal offence, immediately afterwards, or also in escaping from the location where the criminal offence was committed;

2) a person shall be indicated as the committer of a criminal offence by a victim or another person who saw the event or directly acquired such information in another way;

3) clear traces of the committing of the criminal offence have been found on the person him or herself, in the premises in the usage thereof, or in other objects;

4) traces left by such person have been found at the location where the criminal offence was committed;

5) [17 May 2007]

(2) If there exist provisions for an arrest, but a penalty related to the deprivation of liberty may not be applied regarding a committed criminal offence, a person may be arrested if there are reliable grounds for believing that the arrival thereof on the basis of a summons of a person directing the proceedings will not be able to be ensured because:

1) the person refuses to provide information regarding his or her identity, and the identity thereof has not been ascertained;

2) the person does not have a specific place of residence and place of employment;

3) the person does not have a permanent place of residence in Latvia, and such person may attempt to depart from the State.

(3) If there are grounds for believing that a serious or particularly serious crime has been committed, a person who is a vagrant in and hides in the site of the committing of the offence or in the vicinity thereof, and who does not have a specific place of residence and place of employment, may also be arrested, if there are grounds to the allegation regarding the connection thereof with the committed offence.

(4) Taking into account the conditions of this Section, during one criminal proceedings, a person shall be arrested only one time.

[17 May 2007]

Section 265. Arrest Procedures

(1) In arresting a person on the basis of the initiative of an employee of the State police, an employee of an investigative institution, or a public prosecutor, or under the assignment of a person directing the proceedings, such employee or public prosecutor shall immediately inform such person regarding for what such person is being arrested, and shall notify such person that he or she has the right to remain silent, and that everything that such person says may be used against him or her.

(2) If there are grounds for believing that a person to be arrested has a weapon, or that he or she may destroy, throw away, or hide a piece of evidence located with such person, the official who performs the arrest may perform a search of the person to be arrested in compliance with the provisions of Paragraph two of Section 183 of this Law, indicating such search in the arrest protocol of the person.

(3) If there is a clear connection between a person and a committed criminal offence regarding which a penalty related to the deprivation of liberty may be applied, and such person is located at the location where the criminal offence was committed or flees from such site, or if a search for the person regarding the committing of such criminal offence has been announced, such person may be arrested by anyone and shall immediately be handed over to the nearest police employee.

(4) In arresting an official of the Ministry of the Interior system institution, the person directing the proceedings shall without delay inform the relevant head of the Ministry of the Interior system institution.

[17 May 2007]

Section 266. Procedural Drawing-Up of an Arrest

(1) The official who has performed the arrest of a person shall immediately write an arrest protocol at the site of the arrest of the person or after the transfer of the arrested person to arrest premises. A protocol shall indicate:

1) who has performed an arrest, when, and where;

2) the criminal offence regarding which the arrest has taken place;

3) who has been arrested and why;

4) the condition of the arrested person, his or her external appearance, and his or her complaints regarding health;

5) his or her clothing;

6) whether or not a search of the person has been conducted, and what was found;

7) what documents, objects, money, and other valuables the detained person has;

8) the explanation provided by the arrested person.

(2) An arrested person shall be familiarised with a protocol, the rights of an arrested person shall be explained to him or her, and he or she shall sign regarding such explanation in the protocol.

(3) An investigative institution shall immediately hand over an arrest protocol to a person directing the proceedings, and a copy of the arrest protocol shall be sent to a public prosecutor within a term of 24 hours.

(4) Notations regarding subsequent activities – the release of the arrested person or the application of a security measure – shall be made in an arrest protocol.

[28 September 2005]

Section 267. Execution of an Arrest

(1) The restrictions on rights referred to in Paragraph two of Section 271 of this Law shall be applied to an arrested person, and a decision of an investigating judge or court shall not be necessary for such application.

(2) A special law shall determine the procedures for the holding of an arrested person.

Section 268. Term of an Arrest

(1) A person directing the proceedings shall without delay, but not later than within a term of 48 hours, decide regarding the recognition of the arrested person as a suspect or an accused and regarding the application of a security measure.

(2) After the recognition of the arrested person as a suspect or an accused and interrogation, if it is necessary, the person directing the proceedings shall without delay decide regarding the release of such person from a temporary place of detention if a security measure has been applied, which is not related to the deprivation of liberty.

(3) If the arrested person has been recognised as a suspect or an accused in case of necessity interrogated, but the security measure selected by the person directing the proceedings is related to the deprivation of liberty of the person, the person may be located in a temporary place of detention up to the conveyance of the person to an investigating judge, taking into account the specified restriction of 48 hours from the moment of the actual arrest.

[17 May 2007]

Section 269. Release of an Arrested Person

(1) An arrested person shall be immediately released, if:

1) suspicions have not been confirmed that such person has committed a criminal offence;

2) it has been ascertained that a basis and conditions for the arrest did not exist;

3) the application of a security measure related to deprivation of liberty to the arrested person is not necessary;

4) the term of arrest specified by law has expired;

5) an investigating judge has not applied a security measure related to deprivation of liberty;

(2) In releasing an arrested person, a copy of the arrest protocol that indicates the basis and date of release shall be issued to such arrested person.

Section 270. Arrest of Suspected Persons, Accused or Persons against whom the Proceedings for the Determination of Compulsory Measures of a Medical Nature are taking place

(1) A suspected person or accused may be arrested in order to deliver him or her to the person directing the proceedings if a search for him or her has been proclaimed in relation to the commitment of such a criminal offence in respect of which a punishment related to the deprivation of liberty is provided for, and such person has not had applied a security measure related to the deprivation of liberty.

(2) In order to ensure that a suspected person, accused or person against who the proceedings for the determination of compulsory measures of a medical nature are taking place is delivered to an investigating judge, an the investigator or public prosecutor may arrest such persons if:

1) a proposal regarding the application of such a security measure that is related to the deprivation of liberty has been prepared;

2) a decision has been taken regarding the determination of an expert-examination and a proposal regarding the placement of the person in a medical treatment institution for the making of an expert-examination has been prepared; or

3) a proposal has been prepared to place in a psychiatric hospital the person against who the proceedings for the determination of compulsory measures of a medical nature are taking place.

(3) In the cases referred to in Paragraph one of this Section, the fact of the arrest of a suspected person or accused shall be notified without delay to the institution of the person directing the proceedings and it shall, not later than within a period of 12 hours, ensure the delivery of the arrested person to the person directing the proceedings. If the person directing the proceedings prepares a proposal regarding the application of such a security measure which is related to the deprivation of liberty, the person shall be delivered to an investigating judge without delay, but not later than within a period of 24 hours from the moment of the actual arrest.

(4) In the cases referred to in Paragraph two of this Section, the arrested person shall be delivered to an investigating judge without delay, but not later than within a period of 12 hours. For the person who is arrested according to the procedures specified in Paragraph two of this section, during the arrest investigative actions may not be performed, except for interrogation regarding the circumstances, which are important in order to decide the issue of the application or modification of compulsory measures.

(5) Arrests, which are performed in the cases specified in this Section, shall be completed in conformity with the requirements of Section 266 of this Law. If the arrest is performed in the case provided for in Paragraph one of this Section, the arrest protocol shall indicate also the fact who has proclaimed the search for the person. If the arrest is performed in the case provided for in Paragraph two, Clause 1 of this Section, and the arrested person has previously been arrested according to the procedures of Section 264 of this Law, another arrest protocol need not be written, but in the protocol which has been drawn up regarding arrest according to the procedures of Section 264 of this Law, an annotation shall be included regarding the fact from which moment the person is considered to be arrested according to the procedures of this Section.

[17 May 2007]

Section 271. Detention

(1) Detention is the deprivation of the liberty of a person that may be applied, in the cases provided for by law, to a suspect or an accused with a decision of an investigating judge, or a court adjudication, before the entering into effect of a final adjudication in concrete criminal proceedings, if there are grounds for detention.

(2) The application of detention shall be the basis for a restriction on the rights of a person, and shall allow for the following:

1) the holding of the person in an investigation prison or in specially equipped police premises;

2) the moving of the person under the supervision of a guard in the term and location necessary for the progress of proceedings;

3) a restriction on the meetings and contacts of the detained person, except for meetings with a defence counsel;

4) a control on the correspondence and conversations of the detained person;

5) the determination of the internal procedures and regime in the holding location;

6) a restriction on the scope of property located in individual usage.

(3) An investigating judge shall determine the amount of restrictions individually for each detained person, within the boundaries specified by law, assessing the proposals of an investigator or public prosecutor, hearing the views of the detained person, as well as taking into account the nature of the criminal offence, and the reason for detention.

(4) A special law shall determine the procedures for holding in detention.

Section 272. Grounds for Detention

(1) Detention may be applied only if concrete information, acquired in criminal proceedings, regarding facts causes justified suspicions that a person has committed a criminal offence regarding which the law provides for a penalty of deprivation of liberty, and the application of another security measure may not ensure that the person will not commit another criminal offence, will not hinder an investigation, or will not avoid the investigation, court, or the execution of a judgment.

(2) Detention may also be applied to a person being held on suspicion of, or accused of, the committing of an especially serious crime, if:

1) the crime was directed against a minor, a person who was or is materially dependent, or dependent in another manner, on the suspect or accused, or a person who was not able to protect his or her interests due to age, illness, or other reasons;

2) the person is a member of an organised criminal group;

3) one of the conditions referred to in Section 264, Paragraph two, Clauses 1 or 2 of this Law has been determined;

4) the person does not have a permanent place of residence in Latvia.

Section 273. Grounds for the Application of Detention to Minors, Pregnant Women, and Women in the Post-natal Period

(1) The provision referred to in Section 272 of this Law shall apply, with the exceptions specified in such Section, to minors, pregnant women, and women in the post-natal period up to one year, and, if a women is breastfeeding a child, during the entire term of feeding.

(2) If a person referred to in Paragraph one of this Section is held suspect or accused of committing a crime through negligence or of committing a criminal violation, detention shall not be applied.

(3) If a person referred to in Paragraph one of this Section is held suspect or accused of the committing of a intentional less serious crime, detention shall be applied only if the relevant person has violated the provision of another security measure or committed a crime as suspect or an accused in the committing of an especially serious crime.

Section 274. Procedures for the Application of Detention in Pre-trial Proceedings

(1) An investigating judge shall decide regarding the application of detention in pre-trial proceedings by examining a proposal of a person directing the proceedings, hearing the views of the relevant person, as well as examining case materials and assessing the reasons and grounds for detention.

(2) A person directing the proceedings, the person whose detention is being decided, and the defence counsel and representative thereof shall participate in the examination of a proposal of the person directing the proceedings. The proposal of the person directing the proceedings may be examined without the presence of those persons regarding whose detention is being decided if in accordance with a physician’s conclusion the participation thereof is not permissible and if in the relevant procedural activity participates the person’s defence counsel.

(3) If a person directing the proceedings may prove that a person avoids and hides from an investigation, a matter may be decided in the absence of such person. The participation of a defence counsel summoned to provide legal assistance is mandatory.

(4) An investigating judge shall take one of the following decisions in a closed court session, the course of which shall be recorded in minutes:

1) a refusal to apply detention;

2) a refusal to apply detention, but a decision to apply house arrest;

3) a refusal to apply detention, but a decision to apply placement in a social correctional educational institution;

4) a decision to apply detention;

5) a decision to apply detention and to determine the search for a person.

(5) An investigating judge shall justify detention, or the application of another security measure, in a decision with concrete considerations based on case materials.

(6) If an investigating judge does not agree to a proposal of a person directing the proceedings and refuses the application of detention, his or her decision shall also indicate the motives for the refusal.

(7) After the announcement of a decision of an investigating judge, a copy of the motivated decision shall be issued to the persons present in court within a term of 24 hours.

[19 January 2006]

Section 275. Substitution of Detention with a Security Deposit

(1) If an investigating judge determines that the grounds indicated in Section 272 of this Law exist for the application of detention, yet there also exist conditions that testify regarding the possibility to apply a security deposit, and if a person who performs defence so requests, the investigating judge may determine a term for detention for one month, simultaneously determining that detention may be revoked if the person pays the security deposit specified by the judge within such term,

(2) If a security deposit is paid within a term of one month, and if a document certifying payment is submitted to an investigating judge, the judge shall take a decision regarding a change of security measure. On the basis of such decision, a person shall be immediately released from detention.

(3) If a security deposit is not paid, the matter regarding an extension of the term of detention shall be decided in accordance with the procedures specified in Section 274 of this Law.

Section 276. Application of Detention after the Commencement of a Trial

After the commencement of a trial, the court that examines the case shall apply detention on the basis of the initiative thereof or on the basis of a proposal of a public prosecutor, complying with the provisions of Sections 272-275 of this Law.

[19 January 2006]

Section 277. Terms of Detention

(1) A person may be held in detention only so long as is necessary for the ensuring of the normal progress of proceedings, but not longer than is allowed for by this Law for the criminal offence indicated in a decision regarding the recognition of such person as a suspect or the holding of such person criminally liable.

(2) The total term of detention shall include the term that a person has spent in arrest, pre-detention arrest, detention, or in another location of the execution of a compulsory measure related to deprivation of liberty, but shall not include the term that a person has spent in detention in another state in connection with the transfer of criminal proceedings or the extradition of such person.

(3) The term of a detention of pre-trial proceedings shall include the term referred to in Paragraph two of this Section up to the transfer of the case to the court chancellery, but the term of a detention during a trial shall be included up to the completion of the adjudication of the case in a court of first instance.

(4) The term of detention of a person held in suspicion of, or accused of, the committing of a criminal violation shall not exceed three months, of which the person shall be permitted to be held in detention in pre-trial proceedings not longer than two months.

(5) The term of detention of a person held on suspicion of, or accused of, the committing of a less serious crime shall not exceed nine months, of which the person shall be permitted to be held in detention in pre-trial proceedings not longer than four months.

(6) The term of detention of a person held on suspicion of, or accused of, the committing of a serious crime shall not exceed 12 months, of which the person shall be permitted to be held in detention in pre-trial proceedings not longer than six months. Both an investigating judge in pre-trial proceedings and a higher-level court judge during a trial may extend a term by three more months, if a person directing the proceedings has not allowed for unjustified delay, or if the person who performs defence has intentionally delayed the progress of proceedings, or if the faster completion of proceedings has not been possible due to the particular complexity thereof.

(7) The term of detention of a person held on suspicion of, or accused of, the committing of an especially serious crime shall not exceed 24 months, of which the person shall be permitted to be held in detention in pre-trial proceedings not longer than 15 months. Both an investigating judge in pre-trial proceedings and a higher-level court judge during a trial may extend a term by three more months, if a person directing the proceedings has not allowed for unjustified delay, or if the person who performs defence has intentionally delayed the progress of proceedings, or if the faster completion of proceedings has not been possible due to the particular complexity thereof. A higher-level court judge may extend such term by three more months, if the person directing the proceedings has not allowed for unjustified delay, and public safety may not be guaranteed with the application of another security measure.

(8) The issue regarding the extension of the term of detention shall be examined by a court judge in a closed court sitting, providing an opportunity for the person regarding whose detention is being decided, his or her defence counsel and representative, as well the public prosecutor to express their views. The decision cannot be appealed.

(9) If a person to whom a security measure related to deprivation of liberty commits a new criminal offence during criminal proceedings, regarding which the law provides for a penalty of deprivation of liberty, detention may be applied to such person as a security measure. In such cases, the term of detention shall be determined as for a new criminal offence.

(10) A detained person shall be immediately released if the term of detention exceeds the maximum term specified in the Criminal Law for a penalty of deprivation of liberty that a court may impose regarding the criminal offence regarding the committing of which such person has been accused, but after the conviction judgment – if the penalty imposed by the court has ended.

[28 September 2005; 19 January 2006]

Section 278. Terms of Detention for Minors

(1) The term of detention for minors shall not exceed half of the maximum term possible for persons of legal age that is provided for in Section 277 of this Law.

(2) The term of detention for a minor who is held on suspicion of, or accused of, the committing of a serious crime shall not be extended.

(3) The term of detention for a minor who is held on suspicion of, or accused of, the committing of an especially serious crime shall only be extended by a higher-level court judge by three months, if the relevant crime has resulted in a death, or such crime was committed using firearms or explosives.

[19 January 2006]

Section 279. Terms of Detention for Suspects

(1) A suspect shall be held in detention until being held criminally liable for not longer than half of the term of detention allowed for in pre-trial proceedings.

(2) A supervising prosecutor may permit an investigative institution to exceed the term referred to in Paragraph one of this Section, yet by not longer than half of the remaining term of detention in pre-trial proceedings specified in Section 277 of this Law.

Section 280. Repeated Proposal regarding the Application of Detention

(1) If an investigating judge has not applied detention, a person directing the proceedings may repeatedly propose such matter if:

1) a new prosecution regarding the committing of a more serious criminal offence has been brought against, and issued to, a person;

2) a person has violated the provision of an applied security measure;

3) evidence has been acquired regarding attempts to illegally influence a person testifying;

4) a person has destroyed or has attempted to destroy traces of a criminal offence;

5) materials obtained in an investigation cause justified suspicions that a person has committed an intentional criminal offence, or intends to evade a pre-trial investigation or court.

Section 281. Control over the Application of Detention

(1) *[19 January 2006]*

(2) A detained person, and the representative or defence counsel thereof, may at any time submit an application to an investigating judge or court regarding an assessment of the necessity of a subsequent application of detention. The application shall be examined, and a decision taken, in accordance with the procedures specified in Section 274 of this Law.

(3) An application regarding an assessment of the necessity of a subsequent application of detention may be refused without an examination thereof in oral proceedings, if less than four weeks have passed since the last assessment of the necessity of the application of detention, and the proposal is not justified with information regarding facts that were not known to an investigating judge or court in deciding

regarding the application of detention or during the previous examination of the application.

(4) If a detained person, or the representative or defence counsel thereof, has not submitted, within a term of two months after the application of detention, an application regarding an assessment of the necessity of a subsequent application of detention, then such assessment shall be performed by an investigating judge or court.

(5) The decisions provided for in this Section may be appealed in accordance with the procedures specified in Section 286 of this Law.

[19 January 2006]

Section 282. House Arrest

(1) House arrest is the deprivation of liberty of a person that may be applied with a decision of an investigating judge, or a court decision, to a suspect or accused before the entering into effect of a final adjudication in concrete criminal proceedings, if there are grounds for the application of detention, yet the holding of the person in detention is not desirable or not possible due to special circumstances.

(2) A person may be held under house arrest in the permanent place of residence thereof, if the persons of legal age living together with the relevant person agree to such house arrest in the permanent place of residence.

(3) House arrest shall be applied, complaints regarding the application thereof shall be examined, and control over the application thereof shall be performed in accordance with the same procedures as regarding detention.

(4) The restrictions provided for in Section 271, Paragraph two of this Law may be applied to a person held under house arrest.

(5) If necessary, a person held under house arrest may be protected, control over the restriction specified for such person may be assigned to the police, and the correspondence and means of communications of person living together with such person may be subjected to control.

(6) Terms of detention shall be applied to house arrest, and the time spent under house arrest shall be recognised as time spent in detention, counting one day of house arrest as one day of detention.

Section 283. Placement in a Medical Institution for the Performance of an Expert-examination

(1) A suspect, accused, or the person in relation to whom proceedings have been initiated for the determination of compulsory measures of a medical nature may be forcibly placed in a medical institution for the performance of an expert-examination, if the research necessary in a forensic or court psychiatric expert-examination for the solving of matters significant to the case can be performed only under medical in-patient conditions.

(2) A person may be placed in a medical institution for the performance of an expert-examination, based on a decision of an investigating judge or court decision, only if a

decision has also been taken regarding a determination of the relevant expert-examination.

(3) Placement in a medical institution for the performance of an expert-examination shall be applied, complaints regarding the application thereof shall be examined, and control over the application thereof shall be performed in accordance with the same procedures as regarding detention. The participation of a person in the deciding of a matter related to a procedural compulsory measure shall not be compulsory, if, in accordance with a decision of a physician (expert), such participation is not allowed, or not recommended, due to the health condition of the person, and if the representative of the person participates in the relevant procedural action.

(4) The restrictions provided for in Section 271, Paragraph two of this Law may be applied to a person placed in a medical institution.

Section 284. Term Spent in a Medical Institution for the Performance of an Expert-examination

(1) A person placed forcibly may be located in a medical institution for the term necessary for the performance of an expert-examination, yet not longer than the maximum term of detention in pre-trial proceedings specified for the relevant criminal offence category.

(2) The term spent in a medical institution for the performance of a compulsory expert-examination shall also be included in the term of detention if detention has not been selected as a security measure for a person.

Section 285. Placement of a Minor in a Social Correctional Educational Institution

(1) The placement of a minor in a social correctional educational institution is the deprivation of liberty of a person that may be applied with a decision of an investigating judge, or a court decision, before the entering into effect of a final adjudication in concrete criminal proceedings, if the holding in detention of a suspect, or an accused, who is a minor is not necessary, yet there is insufficient conviction that the minor will fulfil his or her procedural duties, and will not commit new criminal offences, while at liberty.

(2) Placement in a social correctional educational institution shall take place in accordance with the same procedures, with the same conditions, up until the same terms, and with the same procedures for appeal and control as in the case of detention. The term spent in the social correctional educational institution shall be included as time spent in detention, counting one day spent in the institution as one day spent in detention.

Section 286. Appeal of an Application of a Compulsory Measure Related to Deprivation of Liberty

(1) In pre-trial proceedings, a person to whom a compulsory measure, excluding detention, related to deprivation of liberty has been applied, the representative or defence counsel thereof, and a public prosecutor may submit a complaint regarding a decision of

an investigating judge within a term of seven days after the receipt of a copy of a decision taken regarding the application of such compulsory measure or a refusal to apply such compulsory measure. The judge shall send his or her decision to a regional court together with the submitted complaint not later than the next working day.

(2) If an investigator submits a proposal regarding the application of a compulsory measure, but an investigating judge has refused the application thereof, the investigator may submit a complaint regarding a decision of the investigating judge only with the consent of the supervising public prosecutor.

(3) If a compulsory measure related to deprivation of liberty is applied to a person after the transfer of a criminal case to a court, and the next court session is not provided for during the next 14 days, such person, or the representative or defence counsel thereof, may submit a complaint within three working days to a court one level higher.

(4) If a compulsory measure related to deprivation of liberty is applied to a person in the absence thereof, such person has the right to appeal the relevant decision within a term of seven days from the moment when such person learned of the application of the compulsory measure.

Section 287. Procedure for Examination of Complaints

(1) A judge of a higher-level court shall examine a complaint regarding the application of a compulsory measure related to deprivation of liberty, or regarding a refusal to apply such compulsory measure, in a closed court session within a term of seven days from the day of the receipt of the relevant decision and complaint.

(2) In examining a complaint, the person to whom a compulsory measure has been applied, or the representative or defence counsel thereof, shall be listened to, and, if necessary, case materials shall also be requested. If a court has not decided regarding the compulsory measure, the person directing the proceedings shall also be listened to.

(3) A judge shall take one of the following decisions:

1) to reject a complaint and leave an appealed decision in effect;

2) to satisfy a complaint, revoke an appealed decision, and, accordingly, apply a necessary compulsory measure or refuse the application thereof.

(4) A judge shall substantiate the taking of a decision in his or her decision, indicating the reasons and grounds specified in this Law or the non-existence thereof. A copy of a decision shall be sent within a term of 24 hours to an investigating judge, person directing the proceedings, the person to whom the security measure being decided has been applied, and the person who submitted the complaint.

(5) A decision shall not be appealed.

Chapter 16
Procedural Sanctions

Section 288. Concept of Procedural Sanctions

Procedural sanctions are compulsory measures that a person directing the proceedings or an investigating judge may apply to a person who does not fulfil the procedural duties provided for by law, interferes with the performance of a procedural action, or does not show respect to the court.

Section 289. Grounds for the Application of Procedural Sanctions

(1) A procedural sanction regarding the following may be applied to a person involved in criminal proceedings or another person:

1) the non-execution of a procedural duty provided for by law and specified by a person directing the proceedings;

2) disturbing the progress of a procedural action;

3) repeated failure to arrive, without a justifying reason, on the basis of a summons of a person directing the proceedings;

4) failure to notify regarding inability to arrive on the basis of a summons of a person directing the proceedings, if such ability existed;

5) delay of a person involved in criminal proceedings in fulfilling his or her procedural duty.

(2) The application of procedural sanctions shall not discharge a person from the execution of a procedural duty, as well as shall not exclude the possibility of applying the procedural compulsory measure provided for by law.

(3) If the content of an administrative violation or a criminal offence is at the disposal of a person referred to in Paragraph one of this Section, such person may be held administratively liable or criminally liable.

Section 290. Types of Procedural Sanctions

(1) The following procedural sanctions may be applied to a person who has violated the procedures specified by law:

1) a warning;

2) a pecuniary penalty; and

3) expulsion from the court room;

(2) Only a warning may be applied to an advocate and public prosecutor, but, in other cases, the Council of Sworn Advocates or the Prosecutor General, accordingly, shall be notified regarding a violation thereof.

Section 291. Warning

(1) A person directing the proceedings may issue a warning to a person who interferes with the procedures specified in criminal proceedings, or who treats the execution of his or her procedural duty carelessly.

(2) A warning may be issued orally or in writing.

Section 292. Pecuniary Penalty

A pecuniary penalty up to the amount of one minimal monthly wage specified in the Republic of Latvia may be imposed upon a person who interferes with the procedures specified in criminal proceedings or ignores the requirements of a person directing the proceedings, if this Law does not specify otherwise.

Section 293. Application of a Pecuniary Penalty

(1) An investigator or public prosecutor who has determined an interference with procedures or a procedural violation shall write a protocol regarding such interference or violation, and shall immediately send such protocol, together with the documents that certify the fact of the violation, to an investigating judge for the taking of a decision regarding the application of a pecuniary penalty.

(2) An investigating judge shall take a decision on the day of the receipt of a protocol, and shall send a copy of such decision to the person to whom a pecuniary penalty has been applied, as well as to a person directing the proceedings, if a pecuniary penalty has not been applied.

(3) If a violation is determined during a court session, the chairperson of the court session shall define the essence of the violation, which shall be entered in the minutes of the court session, notify the operative part of a decision regarding the application of a procedural sanction, and explain to the penalised person his or her right to receive a copy of the entire decision in court on the same day, as well as his or her right to appeal such decision within a term of 10 days.

Section 294. Appeal of a Decision regarding a Pecuniary Penalty

(1) A person may appeal a decision of an investigating judge regarding an application of a pecuniary penalty to the chairperson of the district (city) court within a term of 10 days after the receipt of a copy of the decision, and a court decision may be appealed to the same court that imposed the pecuniary penalty. A complaint may request the general revocation of the decision, the releasing of a person from the payment of the pecuniary penalty, or the reduction of the amount thereof.

(2) A complain shall be examined within a term of 10 days, previously notifying the person upon whom a pecuniary penalty has been imposed regarding the examination. The failure of such person to attend shall not be an impediment to the examination of the complaint.

(3) An accepted decision shall not be appealed.

Section 295. Fulfilment of a Pecuniary Penalty

(1) If a person has not appealed an application of a pecuniary penalty, or a submitted complaint has been rejected, such person has a duty to voluntarily pay such money within a term of 10 days after the report of a decision or the rejection of the complaint.

(2) In the case of a voluntary non-execution of a decision, such decision shall be sent to a sworn bailiff for compulsory execution.

(3) A pecuniary penalty imposed on an official shall be paid by him or her from his or her personal funds.

Section 296. Expulsion from a Court Room

(1) The chairperson of a court session may expel from the court room a person who interferes with procedures during the court session and does not fulfil an order of the judge. A note regarding such expulsion shall be made in the minutes of the court session.

(2) An accused and a victim may be expelled from a court room with a decision of the court, if he or she repeatedly and substantially interferes with procedures. In the case of an expulsion of an accused, a court session may be continued if a court decides that the participation of an accused in the court session is not compulsorily necessary, and, in addition, only so long as there are grounds for believing that the accused may continue to interfere with procedures in the court session.

(3) A pecuniary penalty may be applied to any person, except for an accused, advocate, or public prosecutor, simultaneously with expulsion from a court room.

Section 297. Consequences of Expulsion from a Court Room

(1) If an accused, or victim, who has been expelled from a court room is allowed to continue participating in a court session, the chairperson of the court session shall familiarise such person with the procedural actions that have been fulfilled during the term of the expulsion thereof.

(2) If an accused who does not have a defence counsel is expelled from a court room, he or she shall be ensured with the opportunity to participate in arguments between the parties. In all cases, he or she shall be given the opportunity to say the last word.

Section 298. Appeal of an Expulsion from a Court Room *[19 January 2006]*

Division Four
Special Procedural Protection

Chapter 17
Special Procedural Protection

Section 299. Content of Special Procedural Protection

Special procedural action is the protection of the life, health, and other lawful interests of a victim, witness, and other persons who testify or have testified in criminal proceedings regarding serious or especially serious crimes, as well as of a minor who testifies regarding the crimes provided for in Sections 161, 162, and 174 of the Criminal Law, and of a person the threat to whom may influence the referred to persons (hereinafter in this Chapter – threatened person).

Section 300. Reason and Grounds for Special Procedural Protection

(1) The basis for special procedural protection shall be a real threat to the life, health or property of a person, expressed real threats, or information that provides a person

directing the proceedings with a sufficient basis for believing that a threat may be real in connection with the testimony provided by such person.

(2) A written submission of a threatened person, or the representative or defence counsel thereof, and a proposal of a person directing the proceedings shall be the basis for the determination of special procedural protection.

Section 301. Procedures for the Examination of a Submission regarding the Determination of Special Procedural Protection

(1) A written submission regarding the necessity to determine special procedural protection shall be submitted to a person directing the proceedings.

(2) A person directing the proceedings shall:

1) ascertain whether grounds exist for the special procedural protection of a person;

2) examine the personal identity of a submitter, and other conditions;

3) decide regarding the necessity to determine special procedural protection, or regarding rejection of a received submission.

(3) If a person directing the proceedings recognises the determination of special procedural protection as necessary, he or she shall submit the proposal thereof to the Prosecutor General for the taking of a decision regarding the determination of special procedural protection.

(4) During the adjudication of a case, a threatened person shall submit a submission regarding the determination of special procedural protection to the court, which shall examine such submission itself or assign a public prosecutor to examine such submission.

Section 302. Proposal of a Person directing the proceedings regarding the Determination of Special Procedural Protection

A proposal of a person directing the proceedings regarding the determination of special procedural protection shall indicate:

1) the given name, surname, personal identity number (or, if such number does not exist, the year and date of birth), citizenship, place of residence and employment, education, marital status, dependents, and information regarding the criminal record of the threatened person;

2) the content and date of receipt of the submission;

3) the results of an examination of the submission, and materials that certify the necessity to determine special procedural protection;

4) conclusions regarding the necessity to determine special procedural protection, mentioning the recommendations regarding concrete necessary protection measures.

Section 303. Recognition of a Person as Requiring Special Procedural Protection

(1) Having become familiarised with a submission, a proposal of a person directing the proceedings, and criminal-case materials, and, if necessary, having listened to a threatened person, and the representative or defence counsel thereof, the Prosecutor

General shall take a decision regarding the determination of special procedural protection, or, with a decision thereof, shall refuse to determine special procedural protection for a person.

(2) If a person has submitted to a court a submission regarding the necessity to determine special procedural protection for him or her, the court shall take a decision regarding the determination of such protection. The court may also take such decision on the basis of the initiative thereof, if the necessity has come about, during the process of the trial, to put a person under special procedural protection, and the person has agreed to such protection.

(3) If the hiding of the identity of a person is necessary, a decision of the Prosecutor General shall indicate that the identity data of the person shall be substituted with a pseudonym.

(4) If a decision provides for the hiding of the identity of a person, a person directing the proceedings shall rewrite all the documents, previously written in the criminal proceedings, wherein the identity of such person has been recorded, changing only the identity data of the person as provided for by the decision. The originals of the documents shall be removed from the criminal case and stored together with the decision regarding the determination of special procedural protection, and only the persons directing the proceedings in such criminal proceedings and the public prosecutor specially authorised by the Prosecutor General may familiarise themselves with such documents.

Section 304. Decision regarding the Determination of Special Procedural Protection or a Refusal to Determine such Protection

(1) A decision regarding the determination of special procedural protection shall be taken immediately, insofar as possible, but not later than within a term of 10 days.

(2) A decision shall indicate the institution and official to which the execution of the decision has been assigned, as well as may indicate the protection measures to be applied.

(3) The decision referred to in Paragraph one of this Section shall not be attached to a criminal case, but a statement regarding the taking of such decision shall be attached to the criminal case.

(4) In taking a decision regarding a refusal to recognise a person as requiring special procedural protection, the motivation for the refusal shall indicated.

Section 305. Fulfilment of a Decision regarding Special Procedural Protection

(1) After the taking of a decision, a person directing the proceedings shall:

1) familiarise the person to be protected with the taken decision;

2) explain the right to appeal such decision;

3) explain the rights and duties of the person to be protected;

4) inform the person to be protected whose personal identity data have been substituted with a pseudonym regarding the utilisation of such pseudonym in procedural documents, and regarding the fact that the liability in acting with a pseudonym is the

same as in acting with his or her identity data. The person shall sign regarding such informing, and provide a sample signature of his or her pseudonym.

(2) If only the criminal procedural resources referred to in Sections 308 and 309 of this Law ensure the special procedural protection of a person, a person directing the proceedings shall fulfil a decision in accordance with the procedures specified in this Law.

(3) If measures referred to in a special law also ensure the special procedural protection of a person, a person directing the proceedings shall send a decision to a special protection institution for execution, and the execution thereof shall take place in accordance with the procedures specified in the special law.

(4) In transferring a criminal case from one person directing the proceedings to another, the person directing the proceedings in the records of whom the criminal case is located shall familiarise the new person directing the proceedings with a decision and materials regarding the determination of special procedural protection.

(5) A decision regarding the determination of special procedural protection, the submission of a person, the examination materials thereof, a proposal of a person directing the proceedings, and other materials that apply to the determination and actualisation of special procedural protection shall not be attached to a criminal case, but shall be stored in accordance with the provision for the storage of documents containing State secrets.

Section 306. Rights and Duties of a Defence Counsel and other Persons

Neither a defence counsel, nor other persons who participate in criminal proceedings and who have knowledge, in connection with the execution of the procedural duties thereof, of the determination of special procedural protection have the right to disclose information regarding a person under special procedural protection, and the measures for the protection of such person.

Section 307. Rights and Duties of a Protected Person

A person who has been recognised as requiring special procedural protection has the rights and duties of a protected person specified in a special law.

Section 308. Special Features of the Progress of Procedural actions in Pre-trial Proceedings

(1) A person for whom special procedural protection has been determined shall be summoned to an examination through the intermediation of a special protection institution.

(2) In recording in documents procedural actions wherein a protected person participates for whom personal identity data has been supplemented with a pseudonym, a person directing the proceedings shall only indicate a pseudonym in place of the identity data of such person. If an indication of the address of the receipt of a consignment is necessary, the address of a special protection institution shall be indicated.

(3) In performing procedural actions wherein several persons participate and wherein the prevention of the possibility of identifying a person under special procedural protection is necessary, technical means that do not allow for an identification of such person shall be utilised. Persons under protection have the right to not answer questions, if the answers may provide the opportunity to determine the identity thereof.

(4) With the consent of the Prosecutor General, criminal proceedings against an accused for whom special procedural protection has been determined may be isolated in separate records.

(5) Only the pseudonym of a person whose personal identity data have been substituted with a pseudonym, and the address of a special protection institution, shall be entered in the list of persons to be summoned to a court session.

Section 309. Special Features of a Trial

(1) A criminal case wherein a person has been recognised as requiring special procedural protection shall be examined in a closed court session.

(2) If necessary, a protected person may participate in a court session by using technical means, complying with the procedures specified in Section 140 of this Law, if the person him or herself is located outside of the court room.

(3) A person whose personal identity data have been substituted with a pseudonym in criminal proceedings has the right to not testify in court, if there are grounds for believing that the safety of such person is threatened. Such person shall not be held criminally liable regarding the refusal to testify in court. In such case, the testimony provided in pre-trial proceedings by the person whose personal identity data has been substituted with a pseudonym shall not be read in a court session, and such testimony may not be utilised as evidence in the case.

(4) If a person whose personal identity data has been substituted with a pseudonym in criminal proceedings provides testimony in court using technical means in order not to allow for the possibility of identifying such person, visual or acoustic disturbances shall be created, ensuring the court with the possibility to see and hear such person without the referred to disturbances. Persons under protection have the right to not answer questions, if the answers may provide the opportunity to determine the identity thereof.

(5) If necessary, a witness whose personal identity is being hidden may be examined by court in a separate room, ensuring the ability to hear the provided testimony in the court room, as well as the possibility to ask the witness questions and hear the answers.

(6) If the identity data of a person whose data is being substituted in criminal proceedings with a pseudonym has been disclosed in a court session, the Prosecutor General shall assign, with a decision thereof, a special protection institution to perform the protection measures of such person specified in a special law.

Section 310. Termination of Special Procedural Protection

(1) The special procedural protection of a person shall be terminated with a decision of the Prosecutor General, or a court decision, at any moment, if:

1) the basis for protection has ceased;

2) the person has refused protection; or

3) the actions of the person have made protection impossible.

(2) If a protected person refuses protection, such person shall submit a written submission regarding such refusal to a person directing the proceedings, who shall transfer such submission for deciding to the persons referred to in Paragraph one of this Section.

(3) A decision regarding termination of special procedural protection shall be stored together with other materials that apply to special procedural protection.

Section 311. Non-utilisation of the Testimony of a Protected Person

If the measures to be performed may not guarantee the safety of a protected person, the Prosecutor General, or the court that determined protection, shall take a decision, on the basis of a proposal of a person directing the proceedings, to not utilise the testimony of such person as evidence in the criminal case.

Division Five
Procedural Terms and Documents

Chapter 18
Procedural Terms

Section 312. Procedural Term

A procedural term is the term (or moment) specified in accordance with the procedures provided for in this Law during which (or with the commencement of which) persons involved in criminal proceedings have a duty or the right to perform specific operations, or to refrain from the performance of such operations.

Section 313. Commencement of a Procedural Term

(1) If a procedural term determines the performance of a procedural action before or after another procedural action, or in connection with the entering into effect of an event specified in this Law, or simultaneously with another procedural action, then such procedural term shall be related to a specific event, and the provisions for the calculation of terms specified in Section 314 of this Law shall not apply to such procedural term.

(2) The commencement of a procedural term specified in hours, days, or months shall be indicated in this Law, but if such commencement has not been indicated, the moment when the criminal-procedural relations are established on account of which the term is being specified shall be recognised as the commencement of the term.

(3) The moment when a person involved in proceedings learns of, or, complying with a report specified by law and made in an appropriate manner, had to learn of, the occurrence of a concrete procedural right or duty shall be recognised as the moment of the establishment of criminal-procedural relations.

Section 314. Calculation of Procedural Terms

(1) In calculating a term specified in hours or days, the hour or day on which the term begins shall not be taken into account. The next hour or day shall be recognised as the beginning of the calculation of the term. The term shall end by the running out of the last full hour of the relevant period, if the term has been specified in hours, or by the running out of the last day, if the term has been specified in days.

(2) A term specified in months shall end on the relevant date of the last month, but if the month does not have a relevant date, the term shall end on the last date of the relevant month.

(3) If the end of a term does not fall on a working day, the next working day shall be recognised as the last day of the term.

(4) If a term applies to the deprivation or restriction of the rights of a person, the actual moment of the deprivation or restriction of rights shall be recognised as the beginning of such term, and the actual moment (hour or day) of the termination of the term specified in a decision or law shall be recognised as the end of the term.

Section 315. Operation in Time of Procedural Terms

(1) A term has been observed if a procedural action was performed until the end of the specified term or if the relevant document was transferred until the end of the specified term to a person who has the right, or is authorised, to receive such document, or if the document was transferred to the post until the end of the specified term, and the fact of transferral was certified accordingly.

(2) A term has been observed if a person who is located in detention or in a medical institution has transferred the relevant document to the administration of the place of detention or medical institution until the end of the specific term.

(3) The missing of the term determining the actualisation of rights without a good reason shall cause the termination of such rights.

(4) The missing of the term determining the execution of procedural duties shall not discharge from the execution of a duty, and the relevant procedural duty shall be fulfilled in accordance with the procedures specified by law.

Section 316. Extension of a Procedural Term

(1) Only the procedural terms in relation to which this Law has a special reservation regarding the possibility of the extension thereof shall be extended.

(2) If this Law does not determine otherwise, the matter regarding the extension of a term shall be determined not later than five days before the end of the relevant term, based on the submission of an interested person, and presented materials that have been submitted not later than seven days before the end of the term. The submission regarding the extension of the term shall be examined in the presence of the interested person in the cases specified by law, and if such examination is required by the circumstances of the case and the person regarding whom the corresponding matter is being decided.

(3) In examining a submission regarding the extension of a term, a decision shall be taken regarding the extension of the term or regarding a refusal to extend the term.

(4) A decision regarding the extension of a term or regarding a refusal to extend a term shall indicate the justification for why the term is or is not being extended. Such decision shall indicate the time for which the term is being extended, or the time up until which the term is being extended.

(5) In extending terms, the procedures for the calculation of procedural terms specified in Section 314 of this Law shall be complied with.

Section 317. Missed Renewal of a Procedural Term

(1) An interested person who has missed the term specified for the actualisation of rights due to a justifying reason has the right to submit a submission regarding the renewal of such term. The submission shall indicate the reasons why the term was missed, and documents that certify the justification for the missing of the term shall be attached to such submission.

(2) The submission of an interested person regarding a missed renewal of a term shall be examined by a person directing the proceedings within the term of the next two working days. The submission regarding the renewal of the term shall be examined in the presence of the submitter and other summoned persons, if the deciding of the matter is not possible without the receipt of an additional explanation from the submitter or other persons, and if the submitter has requested such examination in the presence thereof.

(3) In examining a submission regarding the renewal of a term, a person directing the proceedings may take a decision regarding the renewal of a missed term, or regarding a refusal to renew a missed term.

(4) A decision regarding the renewal of a missed term, or regarding a refusal to renew a missed term, shall be motivated, and a submitter shall be immediately notified regarding such decision.

(5) Having received a submission regarding the renewal of a missed term, a person directing the proceedings may suspend, in accordance with a request of the submitter or on the basis of the initiative of the person directing the proceedings him or herself, and up to the deciding of the matter, the execution of an adjudication the renewal of the appeal term of which has been requested.

(6) An investigating judge shall examine submissions regarding the renewal of missed terms in connection with the taking of a decision, located in the competence of the investigating judge, during pre-trial proceedings.

Chapter 19
Adjudications

Section 318. Decisions in Pre-trial Proceedings

(1) During pre-trial proceedings, a person directing the proceedings shall take, and draw up in writing, a motivated decision regarding:

1) the commencement and subsequent direction of criminal proceedings;

2) the recognition of a person as a suspect;

3) the recognition of a person as a victim;

4) the holding of a person criminally liable;

5) the application of a compulsory measure;

6) the completion of pre-trial proceedings.

(2) A person directing the proceedings shall also take a motivated decision in other case specified in this Law, and, if necessary, may take a decision regarding any matter significant in the proceedings.

(3) Officials who perform criminal proceedings but are not persons directing the proceedings shall take a motivated decision in matters within the competence thereof.

Section 319. Court Adjudications

(1) Court adjudications are court judgments and decisions.

(2) A court judgment is a court adjudication regarding the guilt or innocence of an accused, the application or non-application of a penalty, and the acquittal or release from a penalty.

(3) A court shall take a decision regarding matters that must be decided in preparing a criminal case for examination in a court session, during the course of the adjudication of a case, and in transferring a judgment for execution.

(4) Court judgments and, in the cases specified by law, decisions shall be drawn up in writing.

Section 320. Structure of an Adjudication

(1) An adjudication drawn up in writing shall consist of an introduction, a descriptive part, a reasoned part, and an operative part.

(2) The introduction of an adjudication shall indicate the place and time of the taking thereof, the institution and the official who took the adjudication, and the legal matter regarding which the adjudication was taken.

(3) The descriptive part shall indicate the essence of the circumstances ascertained in proceedings that is at the basis of the taking of the adjudication.

(4) The reasoned part shall indicate a reference to the law in accordance with which the adjudication was taken, and shall justify the conclusion made. The adjudication shall have a reasoned part, if so specified in this Law.

(5) The operative part shall indicate the conclusion regarding the matter being examined, the taken adjudication, and the procedures for and term of the appeal of such adjudication.

(6) In the cases provided for in this Law, the written decision of a person directing the proceedings may be composed of only an introduction and an operative part (hereinafter – decision in the form of a resolution).

Section 321. Familiarisation with an Adjudication

(1) A person who is involved in criminal proceedings and whose rights and interests have been affected by a taken adjudication, the representative thereof, and the defence counsel thereof, as well as the person on the basis of the submission, application, or request of whom the adjudication has been taken shall be familiarised with the adjudication before the commencement of the execution thereof, if the execution takes place with the participation of the relevant person.

(2) In the cases specified by law, familiarisation with the decisions taken in pre-trial proceedings shall take place only after the completion of a concrete investigative action, or in completing pre-trial proceedings.

Section 322. Procedures for the Entering into Effect of Adjudications

(1) All procedural decisions shall enter into effect immediately after the taking thereof, if the law does not specify other procedures for entering into effect.

(2) Court judgments shall enter into effect in accordance with the procedures specified in this Law.

(3) An adjudication that has entered into effect is mandatory and shall be fulfilled by everybody.

Chapter 20
Proposals

Section 323. Proposals

A person directing the proceedings shall write a proposal, if operations that are not within the competence of such person directing the proceedings, or for the operation of which a decision of a competent person is necessary, must be performed for the achievement of the purpose of the criminal proceedings.

Section 324. Examination of a Proposal

(1) A proposal shall be examined by an official who has been granted the authority in criminal proceedings to perform the operations recommended in the proposal by him or herself, or to allow another person to perform such operations with a decision on the basis of the location where the criminal offence was committed or on the basis of the location of the investigation or public prosecutor institutions thereof, in the record-keeping of which is the concrete proceedings.

(2) If the law does not specify otherwise, a proposal shall be examined within a term of seven days, summoning the submitter of the proposal, if necessary. The submitter shall be notified regarding a taken decision or commenced operations not later than within a term of three days.

[19 January 2006]

Chapter 21
Minutes

Section 325. Minutes of a Procedural Action

(1) The minutes of an operation shall record the course of an investigative action performed in pre-trial proceedings, and, in the cases specified by law, also the course of another procedural action.

(2) The minutes of a court session shall record procedural actions performed in judicial proceedings.

Section 326. Content of Minutes

(1) The minutes of a procedural action shall indicate:

1) the place and date of the occurrence of the operation;

2) the time when the operation was commenced and completed;

3) the position, given name, and surname of the performer of the procedural action;

4) the given name, surname, and personal identity number of the person – participator in the procedural action, and the given name, surname, place of practice, and procedural status of an advocate;

5) the course of the occurrence of the operation, and determined facts, if such facts exist;

6) the utilised scientific-technical means;

7) the position, given name, and surname of the taker of the minutes.

(2) Objects and documents obtained during the course of a procedural action shall be attached to the minutes.

(3) Section 484 of this Law shall determine the content of the minutes of a court session.

Section 327. Familiarisation with the Minutes of a Procedural Action

(1) The performer of a procedural action shall familiarise the persons who participate in the relevant operation with the content of the minutes of such procedural action, and the attachments thereto, by reading, indicating, or playing such content and attachments. The minutes shall record the corrections and additions expressed by the persons.

(2) The performer of a procedural action, the taker of minutes, and all the persons who participate in the operation shall sign the protocol as a whole and, separately, each page thereof. If a person refuses to sign, such refusal shall be noted in the minutes, indicating the reason and motives for the refusal.

Chapter 22
Summonses

Section 328. Summons

A summons is a document with which a person directing the proceedings summons a person to an investigative institution, the Public Prosecutor's Office, or the court, in order for such person to participate in criminal proceedings (hereinafter – person being summoned). In case of necessity, other means of communication may be utilised for a summons.

[19 January 2006]

Section 329. Content of a Summons

A summons shall indicate:

1) the given name, surname, and place of residence of the natural person being summoned, or another address indicated by such person;

2) the name and legal address of a legal person being summoned, or the address of the authorised representative of such legal person indicated by such legal person;

3) the name and address of the investigative institution, the Public Prosecutor's Office, or court;

4) the time and place of attendance;

5) the reason for the summoning of the person;

6) the duty of the person receiving the summons to transfer such summons to the person being summoned in the case of the absence thereof;

7) the consequences of a failure to attend.

Section 330. Delivery of a Summons

(1) A summons shall be issued not later than two days before the time of arrival indicated therein. If a procedural action is unplanned or cannot be suspended, a summons may be issued directly before arrival.

(2) A summons shall ordinarily be delivered by mail or by a messenger (courier) to the address indicated by the person being summoned, but for a person who is summoned for the first time – to the place of residence or legal address.

(3) If a person being summoned has indicated another mode of communication, or if a case is particularly urgent, a person may also be summoned by utilising other modes of communication.

(4) *[19 January 2006]*

(5) A summons shall be sent to a person being summoned who lives in a foreign state, or whose legal address is in a foreign state, through the intermediation of the Foreign Ministry of the Republic of Latvia or in accordance with the procedures specified in an international agreement.

[19 January 2006]

Section 331. Issuance of a Summons

(1) A summons shall be issued to a person being summoned personally and in exchange for the signature thereof. The time of the receipt of the summons shall also be indicated in the signature part of the summons.

(2) If the deliverer of a summons does not encounter the person being summoned at the address indicated by such person, he or she shall issue the summons to another family member of legal age who lives together with the person being summoned. In such case, the recipient of the summons shall enter his or her given name and surname in the signature part of the summons, and shall indicate his or her relationship to the person being summoned. The recipient of the summons has a duty to give the summons to the person being summoned.

(3) In the case of the absence of a person being summoned, the deliverer of a summons shall make a note regarding such absence in the signature part of the summons, and shall indicate the place to which the person being summoned has departed, and the term when the return of such person is expected.

(4) A summons addressed to a legal person shall be issued to the relevant employee thereof.

(5) The signature part of a summons shall be returned to a person directing the proceedings.

Section 332. Duty of a Person being Summoned to Accept a Summons

(1) A person being summoned has a duty to accept a summons.

(2) If a person being summoned refuses to accept a summons, the deliverer shall make a note regarding such refusal in the signature part of the summons, and shall return such summons to a person directing the proceedings.

Section 333. Duty of Persons being Summoned to be Accessible

(1) A person who has indicated the address thereof to a performer of a procedural action in concrete criminal proceedings has a duty to be accessible at such address.

(2) If a summons has been delivered in accordance with the procedures specified in this Chapter, it shall be recognised that the person being summons has been notified regarding the time and place of the occurrence of criminal proceedings.

(3) If a summons has been delivered to a person being summoned in accordance with the procedures specified in Section 330 of this Law, it shall be recognised that the person being summoned has been notified regarding the time and place of the occurrence of proceedings on the seventh day after the handing over of the summons to the post office.

[19 January 2006]

Chapter 23
Applications

Section 334. Terms for the Examination of an Application

(1) An application shall be examined, and a decision regarding such application shall be taken, immediately after the receipt of the application, if this Law does not specify otherwise.

(2) If the taking of a decision regarding an application is not possible immediately, such decision shall be taken within a term of three working days after the receipt of the application.

Section 335. Deciding of an Application

(1) An application is able to be satisfied, if such application promotes the ascertaining of facts significant in criminal proceedings, and the ensuring of the lawful interests and rights of persons involved in the proceedings and other persons.

(2) If an application has been satisfied, a written decision may be drawn up, and the submitter of the applicant shall be notified in writing regarding the satisfying of the application, and the execution of such satisfaction shall be ensured.

(3) A person directing the proceedings shall take a motivated decision regarding the complete or partial rejection of an application, and the submitter of the application shall be notified regarding such decision within a term of three working days by sending or issuing to him or her a copy of the decision of the person directing the proceedings.

(4) A decision of a person directing the proceedings regarding the rejection of an application may be appealed in accordance with the procedures specified in this Law.

Chapter 24
Complaints

Section 336. Right to Submit a Complaint

(1) A complaint regarding the actions or adjudication of an official performing criminal proceedings may be submitted by a person involved in the proceedings, as well as a person whose rights or lawful interests have been infringed upon by the concrete actions or adjudication.

(2) A complaint submitted by a public prosecutor shall be called the protest of the public prosecutor.

(3) A decision of a person directing the proceedings shall be subject to appeal, except for the cases specified in this Law.

Section 337. Submission of a Complaint

(1) A complaint shall be submitted to the State institution, or person directing the proceedings, that is liable regarding the proceedings and that, in accordance with the law, is entitled to examine complaint and taken decision regarding such complaints.

(2) A complaint shall be submitted:

1) to a person directing the proceedings regarding the actions of a member of an investigative group, the executor of a procedural task, an expert, or an auditor;

2) to the supervising public prosecutor regarding the actions or decision of an investigator or the direct supervisor of the investigator;

3) to a higher-ranking public prosecutor regarding the actions or decision of a public prosecutor.

4) to the chairperson of the court regarding the actions or decision of an investigating judge;

5) to the chairperson of the court regarding the actions of a judge;

6) to a higher-level court regarding the adjudication of a court.

(3) If a person has appealed the actions or decision of a person referred to in Paragraph two, Clauses 1-3 of this Section, and does not agree with the decision taken by the examiner of a complaint – higher-ranking public prosecutor, such person may appeal such decision to the next higher-ranking public prosecutor, whose decision shall be final in a pre-trial investigation.

(4) The decision of a chairperson of a court in the cases referred to in Paragraph two, Clauses 4 and 5 of this Section are final.

(5) A person who has received a complaint regarding his or her actions or decision shall immediately hand over such complaint to the official referred to in Paragraph two of this Section. If a person considers a complaint justified, such person shall simultaneously discontinue the appealed actions or revoke the appeal decision and recognise the results thereof as invalid.

(6) Complaints may be written or oral. A complaint submitted orally shall be entered in the minutes and signed by the submitter of the complaint and the person to whom the complaint was submitted orally. Complaints submitted orally shall be decided in accordance with the same procedures by which the deciding of a written complaint has been specified. A complaint may have attachments that apply to the content of the complaint.

(7) A person who does not understand the language in which criminal proceedings are taking place has the right to submit a complaint in the language that he or she understands.

[28 September 2005; 19 January 2006]

Section 338. Sending of Complaints of Arrested or Detained Persons

The administration of a place of arrest or detention shall immediately hand over the complaint of an arrested or detained person after the receipt of such complaint to the official to whom such complaint is addressed.

Section 339. Terms for the Submission of Complaints

(1) A complaint regarding the actions and decision of an official in a pre-trial investigation may be submitted during the entire term of pre-trial proceedings.

(2) A decision of an investigator or prosecutor regarding a refusal to initiate criminal proceedings, may be appealed within a term of 10 days from the day of the receipt of a copy of the decision.

(3) Complaints regarding court adjudications may be submitted within a term of 10 days from the day of the availability of the adjudication.

(4) If the term for the submission of a complaint has been missed due to a justifiable reason, such term may be renewed on the basis of a request of the submitter by the authority or official who has the right to examine the complaint.

[19 January 2006]

Section 340. Revocation of Complaints

(1) A person who has submitted a complaint is entitled to revoke such complaint.

(2) A compliant that has been submitted to a court may be revoked up until the moment when the court retires to deliberate the taking of an adjudication.

(3) A complaint submitted in the interests of an accused or victim may be revoked only with his or her consent.

Section 341. Suspension of the Execution of an Adjudication in Connection with the Submission of a Complaint

In the cases specified in this Law, the submission of a complaint shall suspend the execution of an appealed adjudication. In other cases, the execution of a decision may be suspended by the official who examines a complaint, if such official considers such suspension necessary.

Section 342. Examination of Complaints

(1) Having received a complaint, the recipient thereof shall decide regarding the examination of such complaint, or send such complaint on the basis of the jurisdiction thereof, within a term of three working days after the day of the receipt thereof.

(2) The assigning of the examination of a complaint to the same official whose actions or decision are being appealed, or to the official who has approved the appealed decision, is prohibited.

(3) The official who examines a complaint may take into account more than just the motives of the complaint. If necessary, such official may examine the legality and validity of the entire appealed adjudication or of the entire criminal proceedings.

(4) An official examining a complaint has a duty, within the scope of his or her competence, to immediately perform measures in order to renew for persons the violated rights and lawful interests thereof.

(5) If the term of a complaint has been missed and has not been renewed, the complaint shall not be examined, and the submitter shall be notified regarding such non-examination.

(6) A court shall examine a complaint in a closed court session in the presence of the submitter of the complaint and his or her defence counsel or representative. The person whose actions or decision is being appealed, or the representative thereof, may participate in the court session. The failure of the referred to persons to attend shall not be an impediment to the examination of the complaint.

(7) Appellate and cassation complaints and protests shall be examined in accordance with the procedures and terms specified in Division Ten of this Law.

[28 September 2005; 19 January 2006]

Section 343. Terms for the Examination of Complaints

(1) A complaint, except for an appellate and cassation complaint and protest, shall be examined within a term of 10 days after the receipt thereof.

(2) In cases where the obtaining of additional materials, or the performing of other measures, is necessary for the examination of a complaint, the examination of the complaint shall be allowed within a term of 30 days, notifying the submitter of the complaint regarding such examination.

(3) If the complaint has not been submitted in the official language, in respect of the beginning of the term of the examination thereof shall be deemed to be the day of the availability of a translation, and the submitter of the complaint shall be notified of this.

[19 January 2006]

Section 344. Deciding a Complaint

(1) A complaint may be satisfied or rejected.

(2) In satisfying a complaint:

1) the appealed adjudication may be fully or partially revoked or modified;

2) the criminal proceedings may be fully or partially terminated;

3) the criminal proceedings may be sent for a new investigation;

4) the results of the appealed actions may be declared invalid.

(3) In satisfying a complaint, an investigating judge and a court shall take the adjudication provided for in Paragraph two, Clauses 1 and 4 of this Section.

(4) A refusal to satisfy a complaint shall be substantiated.

(5) The official or court that decides a complaint may not revoke a previously taken adjudication, if such revocation may cause a worsening of the circumstances of the person who has submitted the complaint, or in the interests of whom the complaint has been submitted.

Section 345. Report regarding the Deciding of a Complaint

(1) The person who has submitted a complaint shall be notified regarding the deciding of the complaint, and the further possibilities and procedures for appeal.

(2) If harm has been illegally caused to a person by appealed actions or an appealed adjudication, the rights thereof to request compensation or rectification for the harm, and the procedures for the actualisation of such rights, shall be explained to such person.

(3) A complaint, a copy of the answers provided to such complaint, and the materials of the examination of the complaint shall be attached to a criminal case.

Chapter 25
Complaints regarding Decisions of the Prosecutor General

Section 346. Appeal of a Decision of the Prosecutor General

A complaint regarding a decision of the Prosecutor General that has been taken in accordance with Sections 303, 310, and 410 of this Law may be submitted by the person whose rights or lawful interests are infringed upon by the concrete decision within a term of 10 days from the day when such person learned of the taking of the decision and of the content thereof.

Section 347. Submission of a Complaint and Determination of Examination

(1) A complaint regarding a decision of the Prosecutor General shall be submitted to the Senate of the Supreme Court.

(2) Having received a complaint, the chairperson of the relevant division of the Senate shall determine the composition of the court, and shall assign the examination of the complaint to one of the judges.

(3) The senator to whom the examination of a complaint has been assigned shall request from the Prosecutor General the criminal case or other materials that were the basis for the taking of the decision, and shall determine the term for examination of the complaint.

(4) If necessary, a judge may requisition documents and other materials, and summon the relevant persons for the provision of explanations.

(5) A judge shall notify the Prosecutor General and the submitter of a complaint regarding the term of the examination of the complaint and regarding his or her rights, and the rights of his or her representative, to participate in the court session. The submitter of a complaint who is located in detention shall, on the basis of his or her request, be ensured participation in the examination of the complaint.

Section 348. Examination of Complaints

(1) The Senate of the Supreme Court with a panel of three judges shall examine a complaint regarding a decision of the Prosecutor General with the participation of the Prosecutor General and the submitter of the complaint, or the representatives thereof. The non-attendance of such persons without a justifiable reason, if such persons have been notified in a timely manner regarding the time and place of the examination, shall not be an impediment to the examination of the complaint.

(2) Having heard the submitter of a complaint and the Prosecutor General, or the representatives thereof, a court shall retire to deliver and take a decision, which shall be read in the court session.

(3) A court may take one of the following decisions:

1) to leave the decision of the Prosecutor General without modification;

2) to modify the decision of the Prosecutor General; or

3) to revoke the decision of the Prosecutor General.

(4) The decision of a court is final and shall not be subject to appeal.

Section 349. Actions of a Court after the Examination of a Complaint

A court shall send a criminal case and other requested materials, together with a decision, to the General Prosecutor within a term of three working days after the taking of the decision.

Division Six
Financial Matters in Criminal Proceedings

Chapter 26
Compensation of Injury Caused by a Criminal Offence

Section 350. Compensation regarding Injury Caused to a Victim

(1) Compensation is payment specified in monetary terms that a person who has caused harm with a criminal offence pays to a victim as atonement for moral injury, physical suffering, or financial loss.

(2) Compensation is an element of the regulation of criminal-legal relations that an accused pays voluntarily or on the basis of a court adjudication.

(3) If a victim believes that the entire injury caused to him or her has not been compensated with a compensation, he or she has the right to request the compensation thereof in accordance with the procedures specified in the Civil Procedure Law. In determining the amount of consideration, the compensation received in criminal proceedings shall be taken into account.

(4) In requesting consideration in accordance with civil legal procedures, a victim shall be discharged from the State fee.

(5) A court adjudication in criminal proceedings regarding the guilt of a person shall be binding in the adjudication of a civil case.

Section 351. Application for Compensation

(1) A victim has the right to submit an application regarding compensation for a caused injury in any stage of criminal proceedings up to the commencement of a court investigation. The application shall justify the amount of the requested compensation.

(2) An application may be submitted in writing or expressed orally. An oral application shall be recorded in the minutes by a person directing the proceedings.

(3) During a pre-trial investigation, a public prosecutor shall indicate a submitted application and the amount of requested compensation in the document regarding the completion of pre-trial proceedings.

(4) The failure to ascertain a person being held criminally liable shall not be an impediment to the submission of a compensation application.

(5) A victim has the right to recall a submitted compensation application at any stage of criminal proceedings up to the moment when the court retires to make a judgment. The refusal of compensation of a victim may not be grounds for the revocation or modification of prosecution, or a justifying judgment.

Section 352. Amount of Compensation

(1) A court shall determine the amount of compensation by assessing the application of a victim, and by taking into account:

1) the amount of financial losses caused;

2) the seriousness of a criminal offence, and the nature of the committing thereof;

3) the caused physical suffering, permanent mutilation, or loss of ability to work;

4) the depth and publicity of a moral injury;

5) mental trauma.

(2) If harm has been caused to a legal person, the difficulties caused to commercial activities shall also influence the amount of compensation.

(3) Direct losses shall be assessed at the prices used for the determination of the amount of prosecution.

(4) The causer of harm may voluntarily agree to the amount of compensation specified by the victim, or such causer and victim may determine such amount by mutual agreement. Such agreement shall be drawn up in writing, or such agreement shall be recorded, on the basis of a request of both parties, in the minutes of the procedural action.

Section 353. Persons upon whom the Duty to Pay Compensation May be Imposed

(1) A court may impose the duty to pay compensation upon the following:

1) an accused of legal age who has been found guilty of the committing of a criminal offence;

2) a minor who has been found guilty of the committing of a criminal offence, - subsidiary with the parents or persons who substitute for him or her.

3) a legal person, if, in the case of such legal person, a natural person has been found guilty of committing a criminal offence and such natural person committed such offence acting individually, as a member of a collegial authority of the relevant legal person, or based on the right to represent the legal person, act under the assignment thereof, or take decisions on behalf of the legal person, or in actualising control within the framework of the legal person, or being in the service of the legal person.

(2) In other cases compensation shall not be determined, but the compensation of harm shall take place in accordance with civil-legal procedures.

(3) A special law shall determine the procedures by which injuries shall be compensated from the victim compensation fund, and the amount of injuries to be compensated from such fund.

Section 354. Fee to the Victim Compensation Fund

(1) A convicting judgment, the injunction of a public prosecutor regarding a penalty, or a decision of a public prosecutor regarding the termination of criminal proceedings, conditionally releasing from criminal liability, shall be the basis for a person who has been found guilty in the committing of al criminal offence to pay a fee to the victim compensation fund.

(2) The amount of a fee shall be:

1) 10 lats for a committed criminal violation;

2) 15 lats for a committed less serious crime;

3) 20 lats for a committed serious crime;

4) 25 lats for a committed particularly serious crime;

(3) If a person has been simultaneously found guilty of the committing of several criminal offences, a fee shall be paid in accordance with the most serious crime.

Chapter 27
Actions with Criminally Acquired Property

Section 355. Criminally Acquired Property

(1) Property shall be recognised as criminally acquired, if such property has come into the property or possession of a person as a result of a criminal offence.

(2) If the opposite has not been proven, property and financial resources shall be recognised as criminally acquired if such property or resources belong to a person who:

1) is a member of an organised criminal group, or supports such group;

2) has him or herself engaged in terrorist activities, or maintains permanent relations with a person who is involved in terrorist activities;

3) has him or herself engaged in the trafficking of human beings, or maintains permanent relations with a person who is engaged in the trafficking of human beings;

4) has him or herself engaged in criminal activities with narcotic or psychotropic substances, or maintains permanent relations with a person who is engaged in such activities.

(3) Within the meaning of this Section, the maintenance of permanent relations with another person who is engaged in specific criminal activities means that the person lives together with a second person or controls, determines, or influences the behaviour thereof.

Section 356. Recognition of Property as Criminally Acquired

(1) Property may be recognised as criminally acquired by a court adjudication that has entered into effect, or by a decision of a public prosecutor regarding the termination of criminal proceedings.

(2) During pre-trial criminal proceedings, property may also be recognised as criminally acquired by:

1) a decision of a district (city) court in accordance with the procedures specified in Chapter 59 of this Law, if the owner or lawful possessor of the property is unknown, and a person directing the proceedings has sufficient evidence that does not cause any doubt regarding the criminal origins of the property (the connection of the property with a criminal offence);

2) a decision of a person directing the proceedings, if, during a pre-trial investigation, property was found and seized on a suspect, accused, or third person in relation to which property the owner or lawful possessor thereof had previously submitted a loss of property, and, after the finding thereof, has proven his or her rights to such property, eliminating any reasonable doubt.

Section 357. Returning of Criminally Acquired Property

(1) Property shall be returned, on the basis of ownership, to the owner or lawful possessor thereof by a decision of a person directing the proceedings, after the storage of such property is not longer necessary for the achievement of the purpose of criminal proceedings.

(2) Property whose circulation is prohibited by law, and which, as a result of such prohibition, is located in the possession of a person illegally, shall not be returned to such possessor, but rather transferred to the relevant State authority, with a decision of the court, or to a legal person that is entitled to obtain and use such property.

Section 358. Confiscation of Criminally Acquired Property

(1) Criminally acquired property shall be confiscated with a court decision, if the further storage of such property is not necessary for the achievement of the purpose of criminal proceedings and if such property does not need to be returned to the owner of lawful possessor, and acquired financial resources shall be included in the State budget.

(2) If criminally acquired property has been alienated, destroyed, or hidden, and the confiscation of such property is not possible, other property, and financial resources, at the value of the property being confiscated may be subjected to confiscation or recovery.

(3) If an accused does not have property that may be subjected to the confiscation referred to in Paragraph two of this Section, the following may be confiscated:

1) property that the accused person has alienated to a third person after the committing of the criminal offence and without corresponding consideration;

2) the property of the spouse of the accused person, if separate ownership of the property of the spouses was not specified during a term of the last three years before the commencement of the criminal offence;

3) the property of another person, if the accused has a common (undivided) household with such person.

(4) The following shall be included in the State budget:

1) resources that have been acquired in marketing property, in accordance with the procedures specified in regulatory enactments, the ownership of which has not been ascertained or the owner of which does not have lawful right to such property, or the owner or lawful possessor of which has refused such property;

2) resources that a person has acquired from the marketing of property, knowing the criminal origins of such property;

3) yield acquired as a result of the utilisation of criminally acquired property;

4) confiscated financial resources;

5) financial benefits, or material benefits of another nature, that a State official has accepted as a bribe;

[17 May 2007]

Section 359. Utilisation of the Resources from the Marketing of Criminally Acquired Property

If a victim has requested compensation for harm, and the resources referred to in Section 358, Paragraph four of this Law have been acquired in concrete criminal proceedings, such resources shall be utilised first for the ensuring and payment of the requested compensation.

Section 360. Rights of Third Persons

(1) If criminally acquired property has been found on a third person, such property shall be returned, on the basis of ownership, to the owner or lawful possessor thereof.

(2) If criminally acquired property has been returned to the owner or lawful possessor thereof, the third person who acquired such property, or pledge, in good faith has the right to submit a claim, in accordance with civil procedures, regarding compensation for the loss, including against an accused or convicted person.

Chapter 28
Ensuring of a Solution to Financial Matters

Section 361. Imposition of an Attachment on Property

(1) In order to ensure the solution of a financial matter in criminal proceedings, as well as the possible confiscation of property, an attachment shall be imposed in criminal proceedings on the property of an arrested person, suspect, or accused, and also on property due to such person from other persons, or the property of persons who are materially liable for the actions of the suspect or accused. An attachment may also be imposed on criminally acquired property, or property related to criminal proceedings, that is located with other persons.

(2) An attachment may also be imposed on property in proceedings regarding the application of compulsory measures on legal persons, and regarding the determination of compulsory measures of a medical nature, if the ensuring of a solution to financial matters in criminal proceedings, a possible recovery of money, or a confiscation of property is necessary.

(3) In pre-trial proceedings, an attachment shall be imposed on property with a decision of a person directing the proceedings that has been approved by an investigating judge, but during a trial a court shall take a decision.

(4) In emergency cases when property may be alienated, destroyed, or hidden due to a delay, a person directing the proceedings may imposed an attachment on the property with the consent of a public prosecutor. A person directing the proceedings shall notify an investigating judge regarding the imposed attachment not later than on the next working day by presenting the protocol and other materials that justify the necessity and emergency of the attachment. If the investigating judge does not approve the decision of the person directing the proceedings regarding the imposition of the attachment on property, the attachment shall be removed from the property.

(5) A decision regarding the imposition of an attachment on property shall indicate the purpose for the imposition of the attachment and the person who owns the property upon which the attachment has been imposed, and, if the amount of the financial matter to be solved is known, the necessary ensuring sum shall also be indicated.

(6) A person directing the proceedings may assign the State police the execution of an attachment, and shall notify the relevant public register wherein the right to such property have been registered regarding the attachment of property, so that such register may register a prohibition on alienating such property and on burdening such property with other case or obligation rights.

(7) If a mortgage pledge was registered in relation to property before an attachment was imposed, actions may take place with the pledged property only on the basis of co-ordination with a person directing the proceedings. If such property has been recognised by a court decision as criminally acquired, the attachment of the property has priority in relation to the pledge.

(8) An attachment shall not be imposed on basic necessity objects used by the person upon whose property the attachment is being imposed, or by the family members of such person and the persons dependent on such person. Annex 1 of this Law shall determine the list of such objects.

Section 362. Protocol regarding the Imposition of an Attachment on Property

(1) A protocol shall be written regarding the imposition of an attachment on property.

(2) A protocol shall record the following:

1) each thing upon which the attachment has been imposed, indicating the name, label, weight, level of wear, and other individual features;

2) the things upon which the attachment has not been imposed, if the attachment has been imposed on an entire property;

3) the application that a third person has submitted regarding ownership of the property.

(3) In imposing an attachment on property, the owner, possessor, user, or holder of such property shall notify regarding a prohibition on acting with, or using, such property, and, if necessary, the property shall be seized and placed in storage.

(4) If property has been seized, the protocol shall indicate precisely what has been seized, and where and with whom such property has been placed in storage.

(5) If an attempt to hide, destroy, or damage property was made during the term of the imposition of an attachment, an entry regarding such attempt shall be made in the protocol.

Section 363. Issuance of Copies of a Protocol regarding the Imposition of an Attachment on Property

(1) A copy of a protocol regarding the imposition of an attachment on property shall be issued, in return for a signature, to the person by whom a description of the property was made, or one of his or her family members of legal age, but if such person is not present, the copy shall be issued to a representative of the local government in the administrative territory of which the attachment was imposed on the property.

(2) If an attachment has been imposed on property that is located in the territory of a legal person, a copy of the protocol regarding the imposition of the attachment on the property shall be issued, in return for a signature, to a representative of such legal person.

Section 364. Determination of the Value of Property Subjected to an Attachment

(1) Property upon which an attachment is being imposed shall be assessed on the basis of the actual value thereof, taking into account the level of wear of such property. If necessary, a specialist shall be invited for the determination of the value of the property.

(2) Money and securities shall be registered on the basis of the nominal value thereof.

(3) If an attachment must be imposed on only a portion of the property for a specific sum, the owner or user of the property has the right to indicate the property that, according to his or her view, should be subjected to attachment.

Section 365. Storage of Attached Property

(1) Property upon which attachment is imposed may be left in storage with the owner or user thereof, his or her family members, or another natural person or legal person to whom the liability, provided for by law, regarding the storage of the referred to property shall be explained. Such persons shall sign regarding such storage.

(2) Property upon which an attachment has been imposed shall not be left in storage with a suspect or accused.

(3) If an attachment is imposed on things the circulation of which has been prohibited by law, or on money, currency, securities, credit, bills of exchange, stocks, or other monetary documents, or on precious metals or precious stones, or articles made from precious metals or precious stones, the place of storage thereof and the procedures for storage shall by determined by the Cabinet.

(4) Monetary deposits and securities stored in banks or other credit institutions shall not be seized, but, after the receipt of a decision regarding the imposition of an attachment on property, withdrawal operation with such deposits or securities shall be discontinued.

Section 366. Revocation of an Attachment on Property

(1) A person directing the proceedings shall take a decision regarding the revocation of an attachment on property, and shall immediately notify the persons upon the property of whom the attachment was imposed, or in the storage of whom the attached property was placed, regarding such revocation. A decision regarding a revocation of an attachment shall be taken, if:

1) a court takes a judgment of acquittal;

2) the court has not taken a decision that the property shall be recognised as criminally acquired;

3) a person directing the proceedings terminates criminal proceedings with a rehabilitating decision;

4) compensation for harm has not been requested in criminal proceedings, or a victim has withdrawn such request;

5) a criminal offence has been reclassified on the basis of another Section of the Criminal Law that does not provide for confiscation of property;

6) any other reason for the ensuring of a solution to financial matters has ceased.

(2) A person directing the proceedings may retain an attachment only for the portion of property that may be necessary for the covering of procedural tasks.

(3) After the entering into effect of an adjudication, a person directing the proceedings shall immediately notify the relevant public register wherein the rights to such property have been registered regarding the removal of an attachment.

Chapter 29
Procedural Expenditures and the Reimbursement thereof

Section 367. Procedural Expenditures

(1) Procedural expenditures are:

1) sums that are paid to witnesses, victims, experts, auditors, specialists, interpreters, and other persons involved in proceedings, in order to cover travel expenses that are related to arriving at the place of the performance of a procedural action, return to the place of residence, and payment for accommodations;

2) sums that are paid to witnesses and victims as an average work remuneration for the term wherein such persons did not perform the work thereof in connection with participation in a procedural action, or that investigative institutions, the Office of the Prosecutor, or the Ministry of Justice have compensated to the employer of the referred to persons regarding average earnings paid out;

3) payment to experts, auditors, interpreters, and specialists regarding work, except for cases where such persons participate in proceedings fulfilling the official duties thereof;

4) payment to an advocate, when expenditures regarding legal assistance are covered from State resources;

5) sums that are used for the storage, transfer, realisation and destruction of material evidence;

6) sums that are used for the conducting of an expert-examination;

7) sums that are used for the protection of property; and

8) other expenditures that have been occasioned in criminal proceedings.

(2) The procedural expenditures referred to in Paragraph one of this Section shall be covered from State resources in accordance with the procedures and in the amount specified by the Cabinet.

[28 September 2005; 19 January 2006; 17 May 2007]

Section 368. Recovery of Procedural Expenditures

(1) Procedural expenditures shall be recovered with a court adjudication from convicted person, except for the cases referred to in Paragraphs three, four, and five of this Section.

(2) If several persons have been convicted with a court judgment, the court shall determine the amount in which procedural expenditures shall be recovered from each convicted person. The court shall take into account the nature of the criminal offence, and the level of liability and financial situation of the convicted person.

(3) If a person has been acquitted with a court judgment, procedural expenditures shall be covered from State resources. If an accused has been partially acquitted, the procedural expenditures that are related to the prosecution in which the person has been found guilty and convicted may be recovered from such person.

(4) Procedural expenditures shall be covered from State funds, if the person from whom such expenditures are to be recovered is indigent. A court may release a convicted person from the recovery of procedural expenditures fully or partially in other cases as well, if the recovery may substantially affect the financial situation of a person who is a dependent of such convicted person.

(5) State resources shall cover the work of an interpreter, as well as procedural expenditures that are related to the participation of an advocate, on the basis of an assignment, in criminal proceedings, if a person directing the proceedings has released a person, in accordance with the procedures specified by law, from payment for legal assistance.

(6) Procedural expenditures that are related to the postponement of an investigative action or court session, if such operation or session has been postponed in connection with the non-appearance, without a justified reason, of a person who has been summoned in accordance with the procedures specified by law, may be recovered from such persons in accordance with the procedures specified in the Civil Procedure Law.

(7) A public prosecutor shall determine the recovery of procedural expenditures in accordance with the procedures provided for in this Section, if criminal proceedings are terminated by preparing an injunction regarding a penalty, or if criminal proceedings are terminated by conditionally releasing from criminal liability or based on other circumstances that do not exonerate the accused.

Part B
Pre-trial Criminal Proceedings and Court Proceedings in Criminal cases

Chapter 30
Initiation and Termination of Criminal Proceedings

Section 369. Reasons for the Initiation of Criminal Proceedings

(1) A reason for initiating criminal proceedings is the submission of information indicating the committing of a possible criminal offence to an investigative institution, Office of the Prosecutor, or court (hereinafter – institution responsible for the progress of criminal proceedings), or the acquisition of such information at an institution responsible for the progress of criminal proceedings.

(2) The information referred to in Paragraph one of this Section may be submitted:

1) as a submission by a person who has suffered as a result of a criminal offence;

2) by controlling and supervising institutions, in accordance with the procedures provided for in the regulatory enactments regulating the activities thereof;

3) by medical practitioners or institutions, as a report regarding traumas, illnesses, or cases of death the cause of which may be a criminal offence;

4) by non-governmental organisations, and authorities protecting the rights of children, as a submission regarding infringements upon the rights of minors the cause of which may be a criminal offence;

5) any natural person or legal person, as information regarding possible criminal offences from which such person has not directly suffered;

6) as a submission by any person regarding a criminal offence committed by such person;

(2) The reason for the initiation of criminal proceedings may not be anonymous information or information whose submitter refuses to disclose the source of the information.

(3) Institutions responsible for the progress of criminal proceedings may acquire the information referred to in Paragraph one of this Section as a result of a departmental or criminal procedural action thereof in the following cases:

1) in directly determining a criminal offence at the time of the committing thereof, and discontinuing such offence;

2) in directly determining clear consequences of a criminal offence;

3) in performing criminal proceedings regarding another criminal offence;

4) in performing other functions specified in laws: examinations, an investigative action, etc.

Section 370. Grounds for the Initiation of Criminal Proceedings

(1) Criminal proceedings may be initiated, if the actual possibility exists that a criminal offence has taken place.

(2) Criminal proceedings may also be initiated if information contains particulars regarding a criminal offence that has possibly taken place, and the examination of such information is possible only with the resources and methods of criminal proceedings.

Section 371. Initiation of Criminal Proceedings within the Competence of Investigative Institutions, the Office of the Prosecutor, or a Court

(1) An investigator, or the direct supervisor of an investigator, has a duty to initiate criminal proceedings, within the framework of his or her competence, in connection with any reason referred to in Section 369 of this Law in a public prosecution case.

(2) A public prosecutor may send materials for examination to an investigatory institution or commence criminal proceedings within the scope of his or her competence, in connection with any reason referred to in Section 369 of this Law in a public prosecution case.

(3) A decision of a public prosecutor regarding the initiation of criminal proceedings in a public prosecution case, and the materials related to such decision, shall immediately be sent to an investigative institution, except for the cases referred to in Section 38, Paragraph three of this Law.

(4) A judge or court shall initiate criminal proceedings in private prosecution cases.

(5) In other cases, a judge or court shall send, without deciding, an application, materials, or information acquired in adjudication to an investigative institution or, in the cases specified by law, to the Office of the Prosecutor.

[19 January 2006]

Section 372. Procedures for the Initiation of Criminal Proceedings

(1) Criminal proceedings shall be initiated by a procedurally authorised official by taking a decision that indicates:

1) the reason and grounds for the initiation thereof;

2) a short description of the offence, insofar as such description is known at the moment of initiation;

3) the person against whom the proceedings have been initiated, if such person is known;

4) the institution or concrete person to whom the performing of the proceedings has been assigned.

(2) A decision may also be written in the manner of a resolution. Such decision shall indicate the assignment to initiate criminal proceedings, and the institution or person to whom the performance of the proceedings has been assigned.

(3) In an emergency case, a decision may be recorded in the manner of a resolution in the minutes of the first emergency investigative action.

(4) A decision regarding the initiation of criminal proceedings shall not be subject to appeal.

(5) Information regarding the initiation of criminal proceedings shall be sent, within a term of 24 hours, to the prosecutorial institution that is responsible for the supervision of

the investigation, as well as to the person who submitted information regarding the criminal offence, except for medical practitioners or a medical institution.

(6) A prosecutorial institution shall notify a person directing the proceedings regarding the data of the supervising public prosecutor within a term of 24 hours after the receipt of information.

(7) Information regarding initiated criminal proceedings and determined criminal offences shall be registered in uniform record-keeping in accordance with the procedures specified by the Cabinet.

Section 373. Refusal to Initiate Proceedings

(1) If a procedurally authorised official determines that there are no grounds for the initiation of criminal proceedings, such official shall take a decision in the manner of a resolution and shall notify the person who has submitted information regarding the committing of a possible criminal offence, except for medical practitioners or institutions, regarding such decision.

(2) The circumstance that information does not contain sufficient information for the initial qualification of an offence may not be grounds for the non-initiation of proceedings.

(3) If information contains particulars regarding a violation of the law for the disclosure of which the use of the resources and methods of criminal proceedings is not necessary, such information shall be sent to the competent institution for the performance of an examination.

(4) If the procedurally authorised officials, in examining materials, determine that the offence has been committed by a minor, who has not reached the age of 14 years, he or she shall take a decision regarding the non-initiation of criminal proceedings and send the materials for departmental examination and the deciding of the issue regarding the application of a compulsory measure of a correctional nature.

(5) The persons referred to in Section 369, Paragraph two, Clauses 1, 2, and 4 of this Law may appeal a decision, within a term of 10 days after the receipt of a report, regarding a refusal to initiate criminal proceedings to a public prosecutor, if the decision has been taken by an investigator, or, if the decision has been taken by a public prosecutor, to a higher-ranking public prosecutor, but in private prosecution cases – to a higher-level court.

(6) A complaint to a public prosecutor or a court regarding the non-initiation of criminal proceedings shall be examined within a period of 10 days from receipt of the complaint or the day of availability of the translation thereof if the complaint has not been submitted in the official language. In exceptional cases, when additional time is necessary for the examination of the complaint, it is permissible that it be examined within a period of 30 days, notifying the submitter of the complaint regarding this.

(7) In satisfying a complaint regarding the non-initiation of criminal proceedings, a public prosecutor or court may fully or partially revoke or amend the appealed decision. The decision of the public prosecutor or court is final.

[28 September 2005; 19 January 2006]

Section 374. Record-keeping of Criminal Proceedings

From the moment of the initiation of criminal proceedings, all the documents related to such proceedings shall be stored together in a criminal case. The referred to documents shall be removed from such case only on the basis of a decision and in accordance with the norms of this Law.

Section 375. Familiarisation with the Materials of a Criminal Case

(1) During criminal proceedings, the materials located in the criminal case shall be a secret of the investigation, and the officials who perform the criminal proceedings, as well as the persons to whom the referred to officials present the relevant materials in accordance with the procedures provided for in this Law, shall be permitted to familiarise themselves with such materials.

(2) After the completion of criminal proceedings and the entering into effect of the final adjudication, employees of the court, the Office of the Prosecutor, and investigative institutions, and persons whose rights were infringed upon in the concrete criminal proceedings, as well as persons who performed scientific activities shall be permitted to familiarise themselves with the materials of the criminal case. All final adjudications in criminal cases, ensuring protection of the information specified by law, shall be publicly accessible.

(3) Information regarding the place of residence and telephone number, or the number (address) of other means of communication, of a person (except for a person who has the right to defence) involved in criminal proceedings shall be stored in a separate reference that shall be attached to a criminal case, and only the officials who perform the criminal proceedings may familiarise themselves with such reference.

Section 376. Criminal Proceedings Register

(1) A criminal proceedings register is the registration page, inserted in each criminal case, that begins with an entry regarding the initiation of criminal proceedings and ends with an entry regarding the entering into effect of a final adjudication.

(2) During the course of criminal proceedings, the following shall be entered in a register:

1) the most important procedural decisions;

2) the officials who perform the concrete criminal proceedings;

3) the legal classification of the criminal offence;

4) the direction of the criminal case;

5) the dates of the procedural terms;

6) the issuance of documents.

(3) The change of a register during the course of proceedings shall not be allowed.

(4) Any person involved in criminal proceedings has the right to immediately familiarise him or herself with the criminal proceedings register.

Section 377. Circumstances that do not Allow for Criminal Proceedings

The initiation of criminal proceedings shall not be permitted, and initiated criminal proceedings shall be terminated, if:

1) a criminal offence has not taken place;

2) the committed offence does not constitute a criminal offence;

3) a limitation period has come into effect;

4) an accepted act of amnesty that prevents the application of a penalty regarding the relevant criminal offence;

5) a person who is to be held or is held criminally liable has died, except for cases where proceedings are necessary in order to exonerate a deceased person;

6) a judgment, or a decision of a person directing the proceedings, regarding the termination of criminal proceedings in the same prosecution against a person who has previously been held criminally liable regarding the same criminal offence;

7) such criminal proceedings are directed against a foreign national or stateless person regarding illegal crossing of the State border, and such foreign national or stateless person has been forcibly deported from the Republic of Latvia regarding such criminal offence;

8) an application of a victim does not exist in criminal proceedings that may be initiated only on the basis of an application of such person;

9) a settlement between a victim and a suspect or accused has taken place in criminal proceedings that may be initiated only on the basis of an application of a victim, except for criminal proceedings regarding the criminal offence provided for in Section 130 of the Criminal Law, if such offence is related to domestic violence;

10) the circumstances that exclude criminal liability referred to in the Criminal Law have been determined.

Section 378. Suspension and Renewal of Criminal Proceedings

(1) A person directing the proceedings shall suspend criminal proceedings, if all the procedural actions that are possible without a suspect or accused have been performed, and if:

1) the suspect or accused has contracted an illness that is an obstacle, for a longer term, to the performance of procedural actions with the participation of such person, and such contraction of the illness has been certified by a conclusion issued by a medical institution;

2) the suspect or accused is in hiding and the whereabouts thereof are unknown; or

3) the whereabouts of the suspect or accused are known, but he or her is located outside of the territory of Latvia;

4) the person who is to be held criminally liable has immunity from criminal proceedings and permission to initiate criminal prosecution has not been received from the competent institution;

5) other cases specified in this Law exist.

(2) If, in a criminal case with several suspects or accused persons, criminal proceedings are suspended against one or several of such persons, the criminal proceedings may be continued in relation to the other suspects or accused persons, simultaneously deciding the matter regarding the division of the criminal case in accordance with the procedures specified in this Law.

(3) Criminal proceedings shall be renewed, if the reason for the suspension of the criminal proceedings has ceased to exist;

(4) A person directing the proceedings shall make a note in the criminal proceedings register regarding the suspension of criminal proceedings, as well as regarding the renewal thereof.

(5) If a suspect or accused is hiding and the whereabouts thereof are unknown, a person directing the proceedings shall announce a search for the referred to person.

[28 September 2005]

Section 379. Termination of Criminal Proceedings, Releasing a Person from Criminal Liability

(1) A person directing the proceedings may dismiss criminal proceedings, if:

1) a criminal offence has been committed that has the features of a criminal offence, but which has not caused harm that would warrant the application of a criminal penalty;

2) the person who has committed a criminal violation or a less serious crime has made a settlement with the victim or his or her representative;

3) a criminal offence has been committed by a minor and special circumstances of the committing of the criminal offence have been determined, and information has been acquired regarding the minor that mitigates his or her liability.

(2) An investigator, with the consent of a supervising public prosecutor, or a public prosecutor may dismiss criminal proceedings, and send materials regarding a minor for the application of a compulsory measure of a correctional nature.

(3) A public prosecutor may dismiss criminal proceedings, conditionally releasing from criminal liability.

(4) The termination of criminal proceedings on the basis of a settlement shall not be permitted, if information has been acquired that the settlement was achieved as a result of threats or violence, or by the utilisation of other illegal means.

(5) The termination of criminal proceedings, releasing a person from criminal liability, shall not be permitted, if the person who has committed the criminal offence, or the representative thereof, objects to such termination.

Section 380. Circumstances that do not Exonerate Persons

A person shall not be exonerated, if criminal proceedings have been terminated with a decision that is provided for in Section 377, Paragraph one, Clauses 3, 4, and 5, Section 379, Paragraphs one and two, Section 410, Paragraph one, Sections 415 and 421, Section 605, Paragraph one, or Section 615, Paragraph three of this Law, or in the case of a judgment of conviction.

Section 381. Actualisation of a Settlement

(1) In the case of a settlement, an intermediary trained the by State Probation Service may facilitate the conciliation of a victim and the persons who committed a criminal offence.

(2) In determining that a settlement is possible in criminal proceedings, and that the involvement of an intermediary is useful, a person directing the proceedings may inform the State Probation Service regarding such possibility or usefulness.

(3) A settlement shall indicate that such settlement has been entered into voluntarily, with each party understanding the consequences and conditions thereof. A settlement shall be attached to a criminal case.

(4) During a court session, a settlement may be announced orally, and such announcement shall be entered in the minutes of the court session.

(5) A settlement shall be signed by both parties – the victim and the person who committed the criminal offence – in the presence of a person directing the proceedings or an intermediary trained by the State Probation Service, who shall certify the signatures of the parties. The parties may also submit a notarially certified settlement to the person directing the proceedings.

Section 382. Procedures for Performing Procedural actions

(1) A person directing the proceedings shall select and perform procedural actions, within the framework of criminal proceedings, in order to ensure the reaching of the purpose of criminal proceedings as quickly and economically as possible.

(2) If necessary and if required by the interests of criminal proceedings, a procedural action may be performed using technical means (teleconference, video conference) in accordance with the procedures specified in Section 140 of this Law.

Section 383. Renewal of a Lost Criminal Case

(1) If a criminal case has been lost, a public prosecutor or court shall take a decision regarding the renewal thereof and, if necessary, transfer such case to a pre-trial investigating institution.

(2) The materials of a criminal case shall be renewed by preparing copies of the relevant documents, if the acquisition of such document is possible, and by performing *de novo* the necessary procedural actions.

Division Seven
Pre-trial Criminal Proceedings

Chapter 31
General Provisions of Pre-trial Criminal Proceedings

Section 384. Content of Pre-trial Criminal Proceedings

In pre-trial criminal proceedings, performing an investigation and criminal prosecution, the following shall be ascertained:

1) whether a criminal offence has taken place;

2) the person who is to be held criminal liable;

3) whether grounds exist for the termination or completion of criminal proceedings, or the directing thereof to court.

Section 385. Types of Pre-trial Criminal Proceedings

(1) During the course of criminal proceedings, a person directing the proceedings shall select one of the following types of pre-trial proceedings:

1) to direct criminal proceedings in order to terminate such proceedings, conditionally releasing from criminal liability;

2) to direct criminal proceedings in order to apply an injunction of a public prosecutor regarding a penalty;

3) to direct criminal proceedings in accordance with urgent procedures;

4) to direct criminal proceedings in accordance with summary procedures;

5) to direct criminal proceedings for the application of agreement proceedings;

6) to perform an investigation and criminal prosecution in accordance with general procedures.

(2) A person directing the proceedings shall enter the selected type of proceedings in the criminal proceedings register in the case where the further direction of the proceedings differs from general procedures. If proceedings take place in accordance with general procedures, such proceedings shall not be indicated in the register.

Section 386. Pre-trial investigating institutions

The following shall perform a pre-trial investigation within the framework of the competence thereof:

1) the State Police;

2) the Security Police;

3) the Fiscal Police;

4) the Military Police;

5) the Prisons Administration;

6) the Corruption Prevention and Combating Bureau;

7) customs authorities;

8) the State Border Guard;

9) the captains of seagoing vessels at sea;

10) the commander of a unit of the Latvian National Armed Forces located in the territory of a foreign state.

Section 387. Institutional Jurisdiction

(1) Officials authorised by the State Police shall investigate any criminal offence, with the exception of the cases specified in Paragraphs two to ten of this Section, except if the Prosecutor General has assigned the performance thereof.

(2) Officials authorised by the Security Police shall investigate criminal offences that have been performed in the field of State security or in State security institutions, or other criminal offences within the framework of the competence thereof and in cases where the Prosecutor General has assigned the performance thereof.

(3) Officials authorised by the Fiscal Police shall investigate criminal offences in the field of State revenue and in the actions of officials and employees of the State Revenue Service.

(4) Officials authorised by the Military Police shall investigate criminal offences committed in the military service and in military units, or in the places of deployment thereof, as well as criminal offences committed in connection with the execution of official duties by soldiers, national guardsmen, or civilians working in military units.

(5) Officials authorised by the Prisons Administration shall investigate criminal offences committed by detained or convicted persons, or by employees of the Prisons Administration in places of imprisonment.

(6) Officials authorised by the Corruption Prevention and Combating Bureau shall investigate criminal offences that are related to violations of the provisions of the financing of political organisations (parties) and the associations thereof, and criminal offences in the State Authority Service, if such offences are related to corruption.

(7) Officials authorised by customs authorities shall investigate matters of smuggling.

(8) Officials authorised by the State Border Guard shall investigate criminal offences that are related to the illegal crossing of the State border, the illegal transportation of a person across the State border, or illegal residence in the State, as well as criminal offences committed by a border guard as a State official.

(9) Captains of seagoing vessels at sea shall investigate criminal offences committed on vessels of the Republic of Latvia.

(10) The commander of a unit of the Latvian National Armed Forces shall investigate criminal offences committed by the soldiers of such unit, or that have been committed at the location of the deployment of such unit (in the closed territory of the place of residence), if the relevant investigative institutions of the foreign state are not investigating such offences.

(11) The Prosecutor General shall determine the institutional jurisdiction of concrete criminal offences.

(12) If the investigation of a concrete criminal offence is under the jurisdiction of more than one investigative institutions, the institution that initiated criminal proceedings first shall investigate such criminal offence.

(13) If an investigative institution receives information regarding a serious or particularly serious crime that is taking place or has taken place, and the investigation of such offence is not included in the competence thereof, and the performance of emergency investigative actions are necessary for the arrest of the committer of the offence or for the recording of evidence, such institution shall initiate criminal

proceedings, inform the relevant competent investigative institutions regarding such initiation of proceedings, perform the emergency investigative actions, and transfer the materials of the initiated criminal proceedings on the basis of jurisdiction.

(14) The Prosecutor General shall resolve the disputes of investigative institutions regarding the jurisdiction of criminal offences.

[28 September 2005]

Section 388. Territorial Jurisdiction of Pre-trial Criminal Proceedings

(1) Pre-trial criminal proceedings shall take place in the district (city) in which a criminal offence has taken place, or, if the determination of such place is not possible, the place where a criminal offence was disclosed or determined, except for the cases specified in this Section.

(2) In order to ensure faster and more economical pre-trial criminal proceedings, such proceedings may also be initiated and performed at the place where the criminal offence has been disclosed, or where the consequences of such offence have come into effect, as well as at the place where the suspect, accused, victim, or the majority of witnesses are located.

(3) In the case of prolonged or continued criminal offences, pre-trial criminal proceedings shall take place in the district (city) in which the relevant offence was completed or interrupted.

(4) If criminal offences have been committed in several districts, pre-trial criminal proceedings shall take place in the district (city) in which such offences were mainly committed, in which the most serious criminal offence was committed, or in which the last of the criminal offences was committed.

(5) The investigative institution, or public prosecutor, that has received information regarding a criminal offence committed in another district (city) shall immediately transfer the received materials on the basis of jurisdiction. If emergency operations are necessary, the investigative institution shall initiate criminal proceedings, perform the emergency investigative actions, and transfer the materials of the initiated criminal proceedings on the basis of jurisdiction.

(6) The Prosecutor General or a chief public prosecutor may remove, within the framework of the competence thereof, any criminal case from one investigative or prosecutorial institution and, with a order written in the manner of a resolution, transfer such case to another investigative or prosecutorial institution, or transfer such case from one public prosecutor or investigator to another public prosecutor or investigator regardless of the place of the committing of the criminal offence.

(7) The chief public prosecutor of a court district, the chief public prosecutor of the Criminal Legal Department of the Office of the Prosecutor General, or the Prosecutor General shall resolve, within the framework of the competence thereof, a dispute regarding territorial jurisdiction in pre-trial criminal proceedings.

Section 389. Term of Pre-trial Proceedings

(1) From the moment when a person who has the right to assistance of a defence counsel, or a person whose right to handle his or her property have been restricted with procedural actions, becomes involved in pre-trial proceedings, the pre-trial proceedings shall terminate or suspend all procedural compulsory measures, and restrictions of rights, in relation to the property:

1) regarding a criminal violation – within a term of six months;

2) regarding a less serious crime – within a term of nine months;

3) regarding a serious crime – within a term of twelve months;

4) regarding a particularly serious crime – within a term of eighteen months;

(2) In criminal proceedings regarding a serious or particularly serious crime, the investigating judge may extend the term of pre-trial proceedings specified in Paragraph one of this Section by six more months but not more than by three months in one extension, if a person directing the proceedings has not allowed for a delay, or the faster completion of the proceedings has not been possible due to the particular complexity of such proceedings.

(3) The term of pre-trial criminal proceedings referred to in Paragraph one of this Section shall be suspended, if the criminal proceedings are suspended.

[28 September 2005]

Section 390. Combination of Pre-trial Criminal Proceedings

(1) Several criminal proceedings may be combined in one records, if:

1) the manner of the committing of the criminal offences indicates, with a high degree of certainty, the mutual connection thereof;

2) the determined facts testify that the criminal offences have been committed by one and the same person;

3) the combination of the cases has been requested by a suspect, accused, or the representative or defence counsel thereof.

(2) Criminal proceedings regarding criminal offences that have been committed by the one and the same persons, or mutually connected persons, and that have features of organised crime shall be combined in one record.

(3) The chief public prosecutor of a district (city), court district, or of the Criminal Legal Department of the Office of the Prosecutor General, or the General Prosecutor shall take a decision, on the basis of a proposal of a person directing the proceedings and within the framework of the competence thereof, regarding the joining of criminal proceedings in one records, entering such decision in the registers of the criminal proceedings to be combined. The decision shall not be subject to appeal.

[28 September 2005]

Section 391. Division of Pre-trial Criminal Proceedings

(1) A person directing the proceedings shall separate criminal proceedings in separate records, if:

1) information has been received, in the pre-trial proceedings, regarding a criminal offence committed by another person, and such offence is not related to the initiated criminal proceedings;

2) the identity of the person who committed the criminal offence in a group has not been ascertained in the pre-trial proceedings.

(2) A public prosecutor may separate criminal proceedings regarding the following in separate records:

1) a suspect or accused who has committed a criminal offence in a group but is hiding, and his or her whereabouts are unknown, or the whereabouts of the suspect or accused are known, but he or she is located outside of the territory of Latvia and cannot participate in proceedings;

2) an accused who is a minor and who has committed a criminal offence together with a person of legal age;

3) another criminal offence possibly committed by an accused that has become known during criminal prosecution;

4) a person for whom special procedural protection has been specified.

(3) A public prosecutor may also divide criminal proceedings in the case where the large volume of such proceedings, or the many sections thereof, cause an impediment to the regulating of the relations of the criminal proceedings within reasonable terms.

(4) A person directing the proceedings shall take a decision regarding the division of criminal proceedings that shall also simultaneously be recognised as a decision for the initiation of new criminal proceedings. The date of the initiation of the new criminal proceedings is the date of the taking of the decision. The decision shall not be subject to appeal.

(5) A person directing the proceedings shall indicate the following in a decision regarding a division of criminal proceedings:

1) the reason and grounds for the division of the criminal proceedings and the initiation of the new criminal proceedings;

2) the personal data of the suspect or accused (if such data is known) in relation to whom the criminal proceedings is being divided;

3) the essence of the prosecution;

4) the qualification of the criminal offence, if such qualification is known;

5) the security measure, and the dates and term of the application thereof.

(6) Originals or copies of the separated case materials and a list thereof shall be attached to a decision regarding the division of criminal proceedings.

(7) A person directing the proceedings shall notify the person who has the right to assistance of a defence counsel regarding the division of criminal proceedings.

[28 September 2005]

Section 392. Termination of Pre-trial Criminal Proceedings and Criminal Prosecution

(1) A person directing the proceedings shall terminate pre-trial criminal proceedings and criminal prosecution, if the circumstances referred to in Section 377 of this Section have been ascertained.

(2) If the proving of the guilt of a concrete suspect or accused in the committing of a criminal offence has not been successful in pre-trial proceedings, and the gathering of additional evidence is not possible, a person directing the proceedings shall take a decision regarding the termination of criminal proceedings against such person, but the investigation shall be continued.

(3) If a case has several accused, but criminal prosecution is being terminated in relation to one or several of such accused, criminal proceedings shall be terminated in such part, and a public prosecutor shall take a decision regarding such termination.

(4) If criminal proceedings are terminated in the part in relation to one or several accused, a public prosecutor shall, if necessary, decide the matter regarding the division of the criminal proceedings.

(5) A public prosecutor shall inform an accused, and the victim to whom harm has been caused by the concrete criminal offence, regarding taken decisions, and shall make the relevant entries in the criminal proceedings register.

Section 393. Renewal of Terminated Criminal Proceedings and Criminal Prosecution

(1) A procedurally authorised person may renew terminated criminal proceedings, or terminated criminal prosecution against a person, by revoking a decision regarding termination, if it has been determined that lawful grounds for the taking of such decision did not exist, or if new circumstances have been disclosed that were unknown to a person directing the proceedings at the moment of the taking of the decision, and which have substantial significance in the taking of the decision.

(2) Pre-trial criminal proceedings and criminal prosecution may be renewed, if the limitation period for criminal liability has not come into effect.

Section 394. Tasks in Pre-trial Criminal Proceedings

(1) An investigator or public prosecutor may assign the performance of separate procedural actions or tasks to another investigative institution or an official authorised to perform criminal proceedings.

(2) An assignment shall be given in writing, indicating the matters that shall be ascertained by performing the relevant investigation or other operation. The decision on the basis of which the indicated investigative action is to be performed shall be attached to the assignment, if such attachment has been determined by law. If the assignment is being given to an official of the same investigative institutions, such assignment may be expressed orally.

(3) An assignment shall be executed not later than within a term of 10 days from the day of the receipt thereof. If the execution of an assignment is not possible within such term, the executor thereof shall notify the assignor regarding such impossibility, indicate the reason for the delay and the possible term for the execution of the assignment.

Section 395. Investigation in a Group

(1) If a large volume of work must be performed in criminal proceedings, or criminal proceedings are particularly complex, the chief public prosecutor or head of the investigative institutions shall take a decision regarding the investigation of a criminal offence in a group, indicating the concrete persons who will participate in the investigation and criminal prosecution and appointing the performer of such criminal proceedings the head of the investigative group. Such decision shall not be subject to appeal.

(2) An entry regarding a taken decision shall be made in the criminal proceedings register.

(3) The head of an investigative group shall organise the work of the group and take all decisions regarding the direction of the criminal proceedings the application of security measures, and the extension of the application term.

Section 396. Prohibition on the Divulging of Information Acquired during Pre-trial Criminal Proceedings

(1) Information acquired by a person involved in criminal proceedings by using the procedural rights thereof or by performing the procedural duties thereof shall be divulged only with the permission of a person directing the proceedings and in the amount specified by him or her.

(2) The duty to not divulge information acquired in pre-trial proceedings shall not apply to the exchange of information between a suspect, or accused, and his or her defence counsel.

Chapter 32
Investigation

Section 397. Commencement of an Investigation

(1) After a decision has been taken regarding the initiation of criminal proceedings, a person directing the proceedings shall perform the procedural actions provided for in this Law up to the moment when the person who is to be held criminally liable is ascertained, and sufficient evidence has been gathered for the transfer of criminal proceedings to a public prosecutor for the commencement of criminal prosecution.

(2) If the person who has committed a criminal offence is not ascertained, an investigation shall be conducted up to the moment when the limitation period for criminal liability comes into effect, or other circumstances are ascertained that, in accordance with the provisions of this Law, do not allow for criminal proceedings.

Section 398. Significance of the Qualification of a Criminal Offence in an Investigation

(1) In initiating criminal proceedings, the actions of the person being investigated may be qualified only on the basis of jurisdiction at the object of the group of criminal offences.

(2) When sufficient evidence has been acquired, the offence regarding which an investigation has been commenced shall be qualified on the basis of a concrete Section of the Criminal Law, and a note shall be made regarding such qualification in the criminal proceedings register.

(3) A person may be recognised as a suspect, and a security measure may be applied to such person, only from the moment when the offence being investigated may be qualified on the basis of a concrete Section of the Criminal Law.

Section 399. Pre-trial Proceedings on Seagoing Vessels at Sea, or in a Unit of the Latvian National Armed Forces located in the Territory of a Foreign State

(1) An investigation shall be performed on seagoing vessels at sea by the captain of the vessel, and an investigation shall be performed in a unit of the Latvian National Armed Forces in the territory of a foreign state by the commander of such unit, in accordance with the procedures and terms specified in this Law up to the moment when the materials of the criminal proceedings may be transferred to the competent investigative institutions or the Public Prosecutor's Office of the Republic of Latvia.

(2) If the necessity arises to apply procedural compulsory measures, or to perform investigative actions that are to be performed only on the basis of a decision of an investigating judge, the captain of a vessel or the commander of a unit may propose such application or performance, and receive such decision, by using technical means of communication.

Section 400. Suspension of Criminal Proceedings in an Investigation

(1) If the ascertaining of persons who have performed criminal violations or less serious crimes has not been successful in criminal proceedings within a term of two months after the day of the initiation of criminal proceedings, an investigator shall decide, with the consent of a supervising public prosecutor, the matter regarding the suspension of criminal proceedings.

(2) Before the suspension of criminal proceedings referred to in Paragraph one of this Section, the minimal amount of procedural and investigative measures determined, in accordance with the classification of the criminal offences, by the Prosecutor General shall compulsorily be executed.

(3) If a supervising public prosecutor determines that all the requirements of the Prosecutor General for the investigation of a concrete criminal offence have been fulfilled in criminal proceedings, a person directing the proceedings shall suspend the criminal proceedings up to the moment when the guilty person may be ascertained, or the limitation period for criminal liability has come into effect. After the suspension of criminal proceedings, investigative actions may be performed only when such criminal proceedings have been renewed.

(4) A decision regarding the suspension of criminal proceedings shall be noted in the criminal proceedings register, and information regarding a criminal offence shall be inserted in the registers of the Ministry of the Interior.

Section 401. Completion of an Investigation

(1) An investigator shall complete an investigation:

1) by proposing the commencement of criminal prosecution in writing, and transferring the materials of the criminal case to a public prosecutor;

2) by transferring the materials of a criminal case to a public prosecutor for the commencement of criminal prosecution on the basis of his or her initiative;

3) by taking a decision regarding the termination of criminal proceedings.

(2) An investigator shall indicate the following in a proposal:

1) the circumstances of the criminal offence;

2) the qualification of the criminal offence;

3) the given name, surname, personal identity number, and notified place of residence of the person to be held criminally liable;

4) evidence.

(3) If criminal proceedings have been terminated in connection with the fact that circumstances have been disclosed that do not allow for an investigation in the criminal proceedings, or that provide grounds for the termination of criminal proceedings, releasing a person from criminal liability, a person directing the proceedings shall immediately notify a public prosecutor or interested persons regarding such termination, explaining the rights thereof to familiarise themselves with the materials of the criminal proceedings.

Chapter 33
Criminal Prosecution

Section 402. Grounds for Holding a Person Criminally Liable in Public Prosecution Proceedings

A person shall be held criminally liable in public prosecution proceedings, if the evidence gathered in an investigation indicates the guilt of such person in the criminal offence being investigated, and the public prosecutor is convinced that the evidence confirms such guilt.

Section 403. Commencement of Criminal Prosecution

(1) A public prosecutor – person directing the proceedings may commence criminal prosecution:

1) if he or she has received a proposal of an investigator regarding the necessity for the commencement of criminal prosecution;

2) on the basis of his or her initiative, removing the criminal proceedings from the records of the investigator.

(2) A public prosecutor shall commence criminal prosecution, by taking a decision regarding the holding of a person criminally liable, within a term of 10 days after he or she has received the materials of the criminal case from an investigative institution.

(3) If a prosecutor cannot discern the grounds for holding a person criminally liable, he or she shall perform one of the following operations:

1) return the criminal case to an investigative institution for the continuation of an investigation, indicating, in writing, the necessity for performing concrete procedural actions;

2) take a decision regarding the termination of criminal proceedings against the concrete person, and send the criminal case to an investigative institution in order to ascertain the guilty person;

3) take a decision regarding the termination of criminal proceedings, determining the circumstances indicated in Section 379 of this Section.

(4) A public prosecutor shall make an entry in the criminal proceedings register regarding the acceptance of criminal proceedings in record-keeping.

Section 404. Revocation of Procedural Immunity for the Commencement of Criminal Prosecution

If this Law does not specify otherwise, a person directing the proceedings, having discerned the grounds for holding a person criminally liable for whom the law has specified immunity from criminal proceedings, shall turn to the competent authority with a proposal to permit the criminal prosecution of such person. The draft of a decision regarding the holding of a person criminally liable (prosecution, which, in addition to that which has been indicated in Section 405 of this Law, shall refer to the evidence that justifies the prosecution, shall be attached to the proposal

Section 405. Decision regarding the Holding of a Person Criminally Liable (Prosecution)

(1) The following shall be indicated in a decision regarding the holding of a person criminally liable (hereinafter also – prosecution):

1) the given name, surname, personal identity number, and notified place of residence, and place of employment of the person to be held criminally liable;

2) the actual circumstances determining legal qualification for each incriminated criminal offence;

3) legal classification of the offence;

4) persons who have suffered as a result of the criminal offence;

5) other persons who are being held criminally liable regarding joint participation or participation in the committing of the same criminal offence.

(2) If the criminal offences have been formed in conceptual aggregation, that which is referred to in Paragraph one of this Section shall be indicated together regarding all of the criminal offences committed in such aggregation.

(3) A decision regarding the holding of a person criminally liable shall not be subject to appeal.

Section 406. Issuance of Prosecution

(1) After a decision has been taken regarding the holding of a person criminally liable, a public prosecutor shall immediately:

1) issue a copy of the prosecution to the accused, after having become convinced of the personal identity of him or her, and explain the essence of the prosecution;

2) issue to the accused written information regarding the rights of an accused;

3) ensure for the accused the opportunity to summon a defence counsel, if such defence counsel has not already been summoned;

4) ascertain whether the accused has a defence counsel, or if there are grounds for requesting the assistance of a defence counsel with the funds of the Sate, or if the participation of a defence counsel is mandatory;

5) ascertain whether the accused has requests, whether he or she wishes to provide testimony, and whether he or she has proposals regarding the application of agreement proceedings.

(2) An accused shall sign regarding the fact that he or she has received a copy of the prosecution, and written information regarding his or her rights, on the decision regarding the holding of him or her criminally liable, and shall indicate the date.

(3) If an accused refuses to sign, a public prosecutor shall record such refusal in the decision, indicating the date when the copy of the prosecution, and written information regarding the rights of the accused, was issued to such accused.

(4) If the representative and defence counsel of an accused are present at the moment of the issuance of a copy of the prosecution, such representative and defence counsel shall also sign the decision regarding the holding of such person criminally liable.

(5) If an accused may not appear before a public prosecutor due to a justifiable reason, the public prosecutor, by common accord, may transfer a copy of the prosecution, and written information regarding the rights of an accused, to the accused personally, through the intermediation of the defence counsel or representative of the accused, with the assistance of a courier, or by post to the address for the receipt of consignments notified by such accused.

(6) If the whereabouts of an accused are known, but he or she is evading appearance on the basis of a summons of a public prosecutor, a copy of the prosecution shall be issued to the accused after the conveyance by force of him or her, or sent by post to the address for the receipt of consignments notified by such accused.

(7) If a search for an accused has been announced, a copy of the prosecution, and written information regarding the rights of an accused, shall immediately be issued after the receipt of a written report regarding the arrest or detention of the accused.

(8) If an accused does not understand the language in which a prosecution has been written, a translation of the prosecution shall be ensured in a language understood by the accused.

(9) If an accused is hiding in another state and a search for him or her has been announced, a copy of the prosecution shall be issued simultaneously with the report of the official extradition request.

Section 407. Examination of an Accused

A public prosecutor may examine an accused immediately after the issuance of a copy of the prosecution to such accused, or, if an accused requests a term in order to prepare for defence, in a mutually co-ordinated reasonable term.

Section 408. Modification of a Prosecution

(1) If a public prosecutor has obtained additional evidence after he or she issued a decision to an accused regarding the holding of such accused criminally liable, and, as a result of such evidence, the modification of a taken decision is necessary, the prosecutor shall write a new decision regarding the holding of the relevant person criminally liable, and shall issue a copy of such new decision to the accused.

(2) If a prosecution has not been approved regarding a criminal offence regarding which a person is being held criminally liable, a public prosecutor shall terminate criminal prosecution in such part with a decision, and he or she shall immediately send a copy of the decision to the person against whom the criminal prosecution has been terminated.

Section 409. Search for an Accused

(1) In suspending criminal proceedings in accordance with Section 378, Paragraph one, Clause 2 of this Law, a public prosecutor shall immediately take a decision regarding a search for an accused. If necessary, a public prosecutor may take a decision regarding the application of a security measure to an accused, or regarding the modification of such decision.

(2) A public prosecutor shall send a copy of a decision regarding a search for an accused, and a decision regarding the application of a security measure, to the State police for execution.

Section 410. Termination of Criminal Proceedings against a Person who has Substantially Assisted in the Disclosure of a Serious or Especially Serious Crime

(1) The Prosecutor General may dismiss criminal proceedings, with a decision thereof, against a person who has substantially assisted in the disclosure of a serious or especially serious crime that is more serious or dangerous than a criminal offence committed by such person him or herself.

(2) The provision of this Section shall not be applied to a person who is being held criminally liable for the committing of a particularly serious criminal offence.

Section 411. Types of Completion of Pre-trial Criminal Proceedings

A public prosecutor may complete pre-trial criminal proceedings:

1) by taking a decision regarding the transferring of a criminal case to a court and submitting the criminal case to the court on the basis of jurisdiction;

2) by taking a decision regarding the transferring of a criminal case to a court in accordance with urgent procedures;

3) by taking a decision regarding the transferring of a criminal case to a court in accordance with summary procedures;

4) by entering into an agreement with the accused and transferring the criminal case to a court;

5) by applying to the accused an injunction regarding a penalty;

6) by terminated criminal proceedings, conditionally releasing from criminal liability;

7) by taking a decision regarding the termination of criminal proceedings;

8) by taking a decision and transferring the criminal case to a court for the determination of compulsory measures of a medical or correctional nature.

Section 412. Completion of Pre-trial Criminal Proceedings by Transferring a Case to a Court

(1) In order to suspend a prosecution in court, a public prosecutor, having recognised evidence as sufficient, shall draw up a list of the materials of a criminal case and archive file to be transferred to the court.

(2) A public prosecutor shall include materials that are applicable to a concrete criminal offence, and that will be utilised in court as evidence, in a criminal case to be transferred to the court, and shall include materials that will not be used as evidence in an archive file.

(3) In completing proceedings, a public prosecutor shall:

1) issue to the accused or his or her defence counsel copies of the materials to be transferred to the court, if such materials have not already been issued or decide regarding him or her becoming acquainted with the materials of the criminal case to be transferred to the court;

2) issue to accused or his or her defence counsel a list of the materials transferred to the archives;

3) *[19 January 2006]*

4) notify the accused or his or her defence counsel that the accused shall submit to the public prosecutor, immediately after receipt of copies of the materials of the criminal case or becoming acquainted with the materials of the criminal case, information regarding the fact that he or she requests the collegial adjudication of the case in a court, or wishes for the participation of a defence counsel in the adjudication of a case whose persons, on the basis of the views of the accused, should be summoned to the court session, or regarding whether the accused agrees to the possibility that the criminal case be adjudicated in prosecution, or in the permanent part thereof, without an examination of evidence.

(4) If an accused, or, in cases of compulsory assistance of counsel, also his or her representative or defence counsel, agrees to the possibility that a criminal case be adjudication in prosecution, or in the permanent part thereof, without an examination of evidence, a public prosecutor shall write up a protocol regarding such consent, indicating therein whether the accused has agreed to the non-performance of an examination of evidence in the entire amount of the prosecution or in a concrete part thereof, and shall explain to the accused the procedural essence and consequences of such consent.

(5) A public prosecutor shall issue to a victim, on the basis of an application of such victim, copies of the materials of a case that applies to a criminal offence in which the person has been recognised as a victim in criminal proceedings.

(6) Copies of findings of forensic-medicine, court-psychiatric, and court-psychological expert-examinations shall not be issued, but the possibility for familiarising oneself with such expert-examinations shall be ensured. The information referred to in Section 203, Paragraph two, Clauses 1 – 5 and 9 – 10 of this Law may be copied from the referred to findings.

(7) In familiarising him or herself with copies of received materials of the criminal case, an accused has the right to utilise the assistance of an interpreter free of charge.

(8) If an accused becomes acquainted with the materials of the criminal case to be transferred to a court, a public prosecutor shall write an act regarding this.

(9) *[19 January 2006]*

(10) After the issuing of a copy of the materials of a criminal case or becoming acquainted with the materials of the criminal case and the receipt of information from the accused, a prosecutor shall take a decision regarding the transferring of the criminal case to a court.

[19 January 2006]

Section 413. Decision regarding the Transferring of a Criminal case to a Court

(1) A public prosecutor shall indicate the following in a decision regarding the transferring of a criminal case to a court:

1) information regarding the accused person;

2) the criminal offence regarding the committing of which the person is being prosecuted and regarding which the case is being transferred to the court;

3) the qualification of the criminal offence;

4) the time, place, and manner of the committing of the criminal offence;

5) the testimony of the accused person;

6) the evidence to be used in court;

7) the applied security measure and the end time thereof;

8) the amount of victims and compensation;

9) the attachment imposed on property;

10) the aggravating and mitigating circumstances of the liability of the accused;

11) the number of pages in the criminal case.

(2) A list of the material evidence and documents shall be attached to a decision, as well as a list of the persons who are to be summoned to a court session on the basis of the views of the prosecution and the defence. Only the list that is sent to the court shall indicate the addresses of the person to be summoned to court.

(3) A public prosecutor shall immediately send a decision together with the materials of a criminal case to a court.

(4) A public prosecutor shall inform an accused and victim, or the representatives thereof, regarding the taking of a decision, and the sending of a criminal case to a court, by sending such person a copy of the decision and information regarding the rights and duties thereof in court, as well as by indicating the court to which the criminal case has been sent. If the accused does not understand the official language in which a decision has been written, the public prosecutor shall ensure a written translation of the decision in a language understood by such accused.

(5) A decision regarding the transferring of a criminal case to a court shall not be subject to appeal.

Section 414. Decision regarding the Termination of Criminal Proceedings

(1) If, in pre-trial proceedings, circumstances have been determined that do not allow for criminal proceedings or may be grounds for the releasing of a person from criminal liability, or if a prosecution has not been proven and the gathering of additional evidence is not possible, a person directing the proceedings shall take a decision regarding the termination of the criminal proceedings or a part thereof.

(2) The descriptive part of a decision shall indicate the following:

1) the grounds for the initiation of criminal proceedings;

2) information regarding a suspect or accused;

3) when the prosecution was pursued and issued, and criminal offence regarding which the prosecution has been pursued and issued or regarding which a person is being held suspect;

4) the applied security measure; and

5) whether criminal proceedings were terminated in a part thereof against one of the accused or suspects before the taking of such decision.

(3) The reasoned part of a decision shall indicate the reasons and grounds for the termination of criminal proceedings or a part thereof.

(4) The descriptive part of a decision shall indicate the following:

1) the taken decision regarding the termination of criminal proceedings or a part thereof;

2) the revocation of a security measure;

3) the revocation of an attachment on property;

4) actions with seized objects and valuables;

5) the procedures for the appeal of the decision.

(5) A copy of a decision shall be sent or issued to the person against whom criminal proceedings were initiated or who was a suspect, accused, or a victim, or to the representative thereof, as well as to the person or institution on the basis of a submission of which criminal proceedings were initiated.

(6) If criminal proceedings have been terminated, but the materials of the criminal case contain information regarding facts in connection with which disciplinary coercion measures or an administrative penalty should be applied to a person, a person directing the proceedings shall send the necessary materials to the competent institution or official.

(7) If the criminal proceedings are terminated, but the criminal case contains information that the offence was committed by a minor, who has not reached 14 years of age, the person directing the proceedings shall decide the sending of the material to a court for the application of a compulsory measure of a correctional nature.

[19 January 2006]

Chapter 34
Special Features of Pre-trial Proceedings in Terminating Criminal Proceedings, Conditionally Releasing from Criminal Liability

Section 415. Termination of Criminal Proceedings, Conditionally Releasing from Criminal Liability

(1) If a public prosecutor, taking into account the nature of and injury caused by a committed criminal offence, personal characterising data, and other conditions of a case, achieves conviction that an accused will hereinafter not commit criminal offences, the prosecutor may dismiss criminal proceedings, conditionally releasing from criminal liability.

(2) In order to obtain personal characterising data, a public prosecutor may request an evaluation report from the State Probation Service.

(3) The termination of criminal proceedings, conditionally releasing from criminal liability, shall be allowed only if:

1) a person is prosecuted regarding the committing of a criminal violation or a less serious crime;

2) a person has not previously been penalised regarding an intentional criminal offence;

3) criminal proceedings have not been terminated against a person, conditionally releasing from criminal liability, within a term of the last five years;

4) a higher-ranking public prosecutor agrees to such termination of proceedings and makes a note in the criminal proceedings register regarding such termination.

(4) The termination of criminal proceedings shall be allowed only with the voluntarily and clearly expressed consent of the accused.

(5) In terminating criminal proceedings, conditionally releasing from criminal liability, a public prosecutor shall determine a term for an examination of three to eighteen months.

(6) In terminating criminal proceedings, conditionally releasing from criminal liability, a person directing the proceedings may impose upon the accused the duties provided for in the Criminal Law.

[19 January 2006]

Section 416. Decision regarding the Termination of Criminal Proceedings, Conditionally Releasing from Criminal Liability

A public prosecutor shall indicate the following in a decision regarding the termination of criminal proceedings, conditionally releasing from criminal liability:

1) the criminal offence regarding the committing of which a person has been prosecuted;

2) the grounds for the termination of criminal proceedings;

3) the term for an examination;

4) the duties imposed on the accused person;

5) the authority to which the controlling of the behaviour of the relevant person has been assigned;

6) the revocation of an applied security measure.

Section 417. Familiarisation with a Decision and the Materials of a Criminal Case

(1) A copy of a decision shall be issued to the person in relation to whom criminal proceedings are being terminated, conditionally releasing from criminal liability, and the consequences of such termination of criminal proceedings shall be explained to such person. The person shall certify with a signature thereof that he or she agrees to the qualification of the criminal offence and voluntarily undertakes the execution of the duties referred to in the decision.

(2) A public prosecutor shall send to a victim a copy of a decision regarding the termination of criminal proceedings, conditionally releasing from criminal liability, and notify regarding his or her rights to familiarise him or herself with the materials of the criminal case and appeal the taken decision.

(3) A decision shall enter into effect, if a victim has not appealed a report within a term of 10 days after the receipt thereof, or his or her complaint has been rejected.

Section 418. Consequences of the Termination of Criminal Proceedings, Conditionally Releasing from Criminal Liability

(1) A decision regarding the termination of criminal proceedings in full amount shall enter into effect after the termination of the term of an examination and the execution of specific duties.

(2) If a person fulfils imposed duties and does not commit a new intentional criminal offence during the term of an examination, it shall be considered that criminal proceedings against such person have been terminated and may not be renewed against

such person regarding the same offence, except for the special cases provided for in this Law.

(3) Criminal proceedings regarding the same offence in relation to a person against whom such proceedings were terminated, conditionally releasing from criminal liability, may be renewed only in the following cases:

1) the person has not fulfilled the duties imposed on him or her;

2) the person has committed a new intentional criminal offence during the term of examination;

3) a public prosecutor has taken a decision in a conflict of interest situation;

4) the person has influenced testifying persons, with an illegal activity thereof, to provide false testimony or has otherwise falsified evidence;

5) new circumstances have been disclosed that were unknown to the public prosecutor at the moment of the taking of the decision, and which confirm that the person has actually committed a serious or especially serious crime that, as a result of the lack of knowledge of such circumstances, has been incorrectly qualified as a criminal violation or a less serious crime.

(4) If a decision has entered into effect in full amount after the execution of conditions, and criminal proceedings have not been renewed in the cases provided for in Paragraph two of this Section, such offence shall not cause repetition of criminal offences. The Information Centre of the Ministry of the Interior shall store information regarding the termination of criminal proceedings, conditionally releasing from criminal liability.

Section 419. Supervision of the Termination of Criminal Proceedings, Conditionally Releasing from Criminal Liability

(1) A public prosecutor who has taken a decision regarding the termination of criminal proceedings, conditionally releasing from criminal liability, shall make a note in the decision, after the termination of the term of an examination and based on the behaviour of the person and information provided by a controlling authority, regarding the execution of conditions and the entering into effect of the decision in full amount.

(2) If the circumstances referred to in Section 418, Paragraph three of this Section have been determined, a public prosecutor shall revoke a decision, renew criminal proceedings, and direct such proceedings in accordance with general procedures.

Chapter 35
Special Features of Pre-trial Criminal Proceedings, Applying the Injunction of a Public Prosecutor regarding a Penalty

Section 420. Injunction of a Public Prosecutor regarding the Admissibility of the Application of a Penalty

(1) If a person has committed a criminal violation or a less serious crime, and a public prosecutor, taking into account the nature of and injury caused by the committed criminal

offence, the personal characterising data, and other circumstances, has achieved the conviction that a penalty related to deprivation of liberty should not be applied to such person, yet such person may not be left without a penalty, he or she may end the criminal proceedings, drawing up an injunction regarding a penalty.

(2) In order to obtain personal characterising data, a public prosecutor may request an evaluation report from the State Probation Service.

(3) If one person has committed several criminal offences, an injunction regarding a penalty may be applied only regarding all of the criminal offences thereof.

(4) If several persons have been prosecuted regarding one criminal offence, an injunction regarding a penalty may be applied to a person for whom such application is possible in accordance with this Law.

(5) A public prosecutor shall draw up an injunction regarding a penalty, if an accused admits his or her guilt, has compensated the injury cased to a victim, and agrees to the termination of criminal proceedings by applying a penalty to him or her.

[19 January 2006]

Section 421. Injunction of a Prosecutor regarding a Penalty

(1) If a public prosecutor has determined that criminal proceedings may be ended by determining a penalty for a person, he or she shall draw up an injunction regarding a penalty, which shall include the decision regarding the termination of criminal proceedings and the operative part of which shall indicate the penalty and the term for the execution thereof.

(2) A public prosecutor, in his or her injunction regarding a penalty, may apply a pecuniary penalty or community service to an accused person, yet not more than half of the maximum pecuniary penalty or duration of community service provided for in the Criminal Law.

(3) A public prosecutor may also apply an additional penalty – restriction of rights – yet not more than half of the maximum duration of an additional penalty provided for in the Criminal Law.

[19 January 2006]

Section 422. Familiarisation with the Materials of a Criminal Case

(1) Copies of an injunction and of the materials of a criminal case shall be issued to the person against whom criminal proceedings are being terminated by such injunction of a public prosecutor regarding a penalty, and the consequences of the termination of criminal proceedings shall be explained to such person. The person shall sign that he or she agrees to the qualification of the criminal offence and undertakes the execution of the penalty specified in the injunction. The accused may express his or her consent immediately or within a term of five working days from the day of the receipt of the copies.

(2) A person directing the proceedings shall send to a victim a copy of an injunction regarding a penalty, and shall inform such victim regarding his or her rights to familiarise

him or herself with the materials of the criminal case, as well as to appeal a taken decision within a term of 10 days after the receipt of the report.

Section 423. Consequences of an Injunction of a Public Prosecutor regarding a Penalty

(1) A person shall be considered not penalised, if such person has not committed a new criminal offence within a term of one year from the day of the execution of the imposed penalty.

(2) If a person has agreed to an injunction regarding a penalty, yet does not execute such penalty, the authority responsible for the execution of the penalty shall propose, in accordance with the procedures specified in this Law, a matter regarding the replacement of the penalty in accordance with procedures provided for by law.

[28 September 2005]

Chapter 36
Special Features of Pre-trial Proceedings, Applying Urgent Procedures

Section 424. Admissibility of the Application of Urgent Procedures

In commencing an investigation, a person directing the proceedings may apply urgent procedures, if:

1) the person who committed the criminal offence has been ascertained, because such person was surprised at the moment of the committing of the criminal offence or immediately after the committing thereof;

2) the person has committed a criminal violation, a less serious crime, or a serious crime;

3) the completion of the investigation, in accordance with emergency procures in the amount specified for such investigation, is possible in three working days.

Section 425. Direction of an Investigation in Accordance with Urgent Procedures

(1) A person directing the proceedings shall do the following after the commencement of an investigation in accordance with urgent procedures:

1) ascertain the circumstances of the committed criminal offence;

2) ascertain the victim of the criminal offence;

3) ascertain the nature and amount of injury caused by the criminal offence;

4) ascertain the eyewitnesses of the event;

5) perform a questioning of eyewitnesses and of the person against whom criminal proceedings have been initiated;

6) if necessary, perform an inspection of the site of the event, or other investigative actions;

7) record all that has been determined in a single protocol;

8) take a decision regarding the recognition of a person as a suspect, may decide the issue of application of security measures; and

9) ascertain other circumstances that have significance in the deciding of the matter.

(2) Within a term of three working days after the commencement of an investigation, a person directing the proceedings shall submit the materials of a case together with a cover letter to the supervising public prosecutor, and shall make a note regarding such submission in the minutes of the criminal proceedings.

[28 September 2005; 19 January 2006]

Section 426. Activities of a Public Prosecutor in Pre-trial Criminal Proceedings in Accordance with Urgent Procedures

(1) A public prosecutor shall decide regarding the continuation of proceedings in accordance with urgent procedures within a term of two working days after the receipt of materials.

(2) If a public prosecutor does not agree to the continuation of proceedings in accordance with emergence procedures, because he or she determines circumstances that do not allow for such continuation, or he or she believes that sufficient evidence has not been gathered in order for a court to prove the guilt of the suspect, such public prosecutor shall send the materials back to the investigative institution for the continuation of criminal proceedings in accordance with general procedures. The public prosecutor may continue the criminal proceedings according to general procedures.

(3) If a public prosecutor agrees to the continuation of proceedings in accordance with urgent procedures, he or she shall take a decision regarding the transferring of the criminal case to a court.

[19 January 2006]

Section 427. Decision regarding the Transferring of a Criminal Case to a Court in Accordance with Urgent Procedures

(1) A public prosecutor shall indicate the following in a decision regarding the transferring of a criminal case to a court in accordance with urgent procedures:

1) the person regarding whose offence criminal proceedings are taking place (given name, surname, personal identity number, notified place of residence and place of employment);

2) the criminal offence regarding the committing of which a person is being prosecuted and transferred to a court;

3) the qualification of the criminal offence;

4) the evidence to be used in court;

5) the aggravating and mitigating circumstances of the liability of the accused;

6) the applied security measure; and

7) the amount of victims and compensation;

8) the place and time of the trial of the matter.

(2) A public prosecutor shall determine the term for the trial of a matter by co-ordinating such term with a court, yet the term up to a court session shall not be permitted to be shorter than three or longer than 10 working days, counting from the day when a copy of a decision was issued to the accused.

(3) A list of material evidence and documents shall be attached to a decision, as well as a list of the persons who are to be summoned to a court session on the basis of the views of the prosecution and the defence. A public prosecutor shall send a summons to the court session simultaneously to all persons to be summoned.

(4) A taken decision regarding the transferring of a criminal case to a court shall simultaneously be recognised also as a decision regarding the holding of a person criminally liable.

(5) A copy of a decision shall be immediately issued to an accused together with copies of case materials. A copy of the decision shall also be submitted to a victim.

(6) After the issuance of a copy of a decision, a public prosecutor shall send the taken decision and materials of the criminal case to a court.

(7) A decision regarding the transferring of a criminal case to a court in accordance with urgent procedures shall not be subject to appeal.

Chapter 37
Special Features of Pre-trial Proceedings in Accordance with Summary Procedures

Section 428. Admissibility of the Application of Summary Procedures

A person directing the proceedings may perform an investigation in accordance with summary procedures, if:

1) the person who committed the criminal offence has been ascertained;

2) the completion of the investigation is possible within a term of 10 days.

Section 429. Direction of an Investigation in Accordance with Summary Procedures

(1) A person directing the proceedings shall do the following after the commencement of an investigation:

1) ascertain the circumstances of the committed criminal offence;

2) ascertain the victim of the criminal offence;

3) ascertain the nature and amount of injury caused by the criminal offence;

4) perform the necessary investigative actions;

5) take a decision regarding the recognition of a person as a suspect;

6) if necessary, arrest the suspect or apply a security measure to him or her;

7) ascertain other circumstances that have significance in the deciding of the case.

(2) Within a term of 10 days after the day of the commencement of an investigation, a person directing the proceedings shall submit to a public prosecutor case materials along with the proposal regarding the commencement of criminal prosecution.

(3) In a proposal, a person directing the proceedings shall provide a short description of the offence being investigated, the qualification thereof, and shall indicate the data of the person who is possibly guilty.

Section 430. Operations of a Public Prosecutor in Pre-trial Summary Proceedings

(1) If a public prosecutor does not agree to the continuation of proceedings in accordance with summary procedures, because he or she determines circumstances that do not allow for such continuation, or he or she believes that sufficient evidence has not been gathered in order to bring a prosecution against a suspect and prove such prosecution in court, such public prosecutor shall send the materials back to the investigative institution for the continuation of criminal proceedings in accordance with general procedures. The public prosecutor may continue the criminal proceedings according to general procedures.

(2) If a public prosecutor agrees to the continuation of proceedings in accordance with summary procedures, he or she shall take a decision regarding the transferring of the criminal case to a court.

(3) A public prosecutor shall take a decision and send a criminal case to court within a term of 10 days.

[19 January 2006]

Section 431. Decision regarding the Transferring of a Criminal Case to a Court in Accordance with Summary Procedures

(1) A public prosecutor shall indicate the following in a decision regarding the transferring of a criminal case to a court in accordance with summary procedures:

1) the person regarding whose offence criminal proceedings are taking place (given name, surname, and personal identity number);

2) the criminal offence regarding the committing of which a person is being prosecuted and transferred to a court;

3) the qualification of the criminal offence;

4) the evidence to be used in court;

5) the applied security measure;

6) the attachment imposed on property;

7) the aggravating and mitigating circumstances of the liability of the accused;

8) information regarding the person of the accused;

(2) A list of material evidence and documents shall be attached to a decision, as well as a list of the persons who are to be summoned to a court session on the basis of the views of the prosecution and the defence.

(3) A taken decision regarding the transferring of a criminal case to a court shall simultaneously be recognised also as a decision regarding the holding of a person criminally liable, and such decision shall not be subject to appeal.

Section 432. Familiarisation with Case Materials in Summary Proceedings

(1) A copy of a decision regarding the transferring of a criminal case to a court in accordance with summary proceedings shall be submitted to an accused together with the materials of the case. A copy of the decision shall also be submitted to a victim.

(2) *[19 January 2006]*

(3) After the implementation of the activities referred to in Paragraph one of this Section, a public prosecutor shall send the materials of the criminal case together with a decision regarding the transfer of the criminal case to a court in accordance with summary procedures.

[19 January 2006]

Chapter 38
Application of an Agreement in Pre-trial Criminal Proceedings

Section 433. Grounds for the Application of an Agreement

(1) A public prosecutor may enter into an agreement, on the basis of his or her own initiative or the initiative of an accused or his or her defence counsel, regarding an admission of guilt and a penalty, if circumstances have been ascertained that apply to an object of proof, and the accused agrees to the amount and qualification of his or her incriminating offence, an assessment of the injury caused by such offence, and the application of agreement proceedings.

(2) Agreement proceedings may not be applied, if there are several accused persons in one criminal proceedings and if an agreement regarding an admission of guilt and a penalty may not be applied to all the accused persons.

Section 434. Negotiations regarding the Entering into of an Agreement

(1) If, in pursuing a prosecution or continuing criminal prosecution, a public prosecutor considers as possible the entering into an agreement, he or she shall perform the following operations:

1) explain to an accused, or the representative of an accused who is a minor, the possibility to regulate criminal-legal relations by entering into an agreement, and the rights of the accused in entering into an agreement, and the consequences of such entering into of an agreement;

2) inform a victim regarding his or her rights to express his or her views regarding the possible application of agreement proceedings.

(2) Having received the consent of an accused, or of the representative of an accused who is a minor, to enter into an agreement, a public prosecutor shall prepare a draft of the

agreement and commence negotiations with the accused, his or her defence counsel, or the representative of the accused who is a minor regarding the elements of the agreement.

(3) If an accused, or the representative of an accused who is a minor, agrees to a prosecution that has been pursued and issued, the qualification of the criminal offence, and the assessment of the injury caused by such offence, negotiations shall be commenced regarding the type and amount of a penalty, which a public prosecutor will request for a court to apply.

Section 435. Rights of an Accused in Agreement Proceedings

(1) An accused has the following rights in agreement proceedings:

1) to agree or not agree to the entering into an agreement;

2) to submit a recusal;

3) to express his or her proposal regarding the type and amount of a penalty;

4) to receive copies of the materials of the criminal case after the entering into an agreement;

5) to be informed of the criminal offence regarding the committing of which he or she will be prosecuted in court, and the type and amount of penalty that the prosecutor will request for the court to apply;

6) to participate in the adjudication of the agreement in court;

7) to provide explanation regarding the course of the agreement;

8) to refuse the entered into agreement up to the moment where the court retires to the deliberation room in order to make an adjudication;

9) to appeal the adjudication;

10) to familiarise him or herself with the minutes of the court session;

11) to receive the legal assistance of a defence counsel.

Section 436. Rights of a Victim in Agreement Proceedings

(1) If criminal proceedings are continued as agreement proceedings, a person directing the proceedings – public prosecutor shall issue to a victim a copy of the minutes of the agreement.

(2) A victim has the following rights:

1) to submit a recusal;

2) to receive information in a timely manner regarding where and when a court will examine an agreement;

3) to participate in the adjudication of the agreement in court;

4) to express his or her objections to the approval of the agreement;

5) to submit a cassation complaint regarding violations of the procedures of agreement proceedings or violation of the norms of the Criminal Law;

6) to participate in the adjudication of a case in a court of cassation in accordance with the procedures specified in Section 101 of this Law.

Section 437. Minutes of an Agreement

(1) The minutes of an agreement shall indicate the following:

1) the place and date of the occurrence of the operation;

2) the position, given name, and surname of the performer of the procedural action;

3) the given name, surname, and personal identity number (or, if such personal identity number does not exist, the year and date of birth) of an accused or the representative of an accused – minor person, and the given name, surname, and place of practice of a defence counsel;

4) the time and place of the committing of the criminal offence, and a short description of such offence;

5) the qualification of the criminal offence;

6) the amount of harm caused by the criminal offence, and an agreement regarding the compensation of such harm;

7) the aggravating and mitigating circumstances of the liability of the accused;

8) information regarding the accused person;

9) the penalty that a public prosecutor will request for the court to apply.

(2) If an accused has committed several criminal offences, a public prosecutor shall indicate the penalty that he or she will request to be applied regarding each of the criminal offence, and the final penalty. Such provision shall also be complied with in cases where a penalty is specified for an accused after several judgments.

(3) An agreement shall be signed by an accused, a defence counsel, the representative of an accused – minor person, and a public prosecutor, and a copy of such agreement shall be issued to the accused or his or her representative.

Section 438. Sending of a Criminal Case to a Court

(1) After the entering into an agreement, a public prosecutor shall send the materials of a criminal case together with the minutes of the agreement to a court, proposing for such court to approve the entered into agreement.

(2) In a proposal to a court, a public prosecutor shall:

1) inform regarding an entered into agreement;

2) inform regarding a security measure applied to an accused;

3) refer to evidence that confirms the committing of a criminal offence and the guilt of the accused;

4) indicate the amount of harm caused by the criminal offence, and an agreement regarding the compensation of such harm;

5) inform regarding the expenditures of pre-trial proceedings;

6) refer to material evidence, the location thereof, and resources that have been used for the ensuring of compensation and of a possible confiscation of property;

7) request for the court to approve the entered into agreement and impose the penalty provided for in such agreement.

(3) A public prosecutor shall inform an accused, his or her defence counsel, a victim, and the representatives thereof in writing regarding the court to which a case has been sent.

(4) After the sending of a case to a court, all requests and complaints shall be sent directly to the court.

Chapter 39
Special Features of Pre-trial Criminal Proceeding Applying Coercive Measures to a Legal Person

Section 439. Procedures for Criminal Proceedings

(1) If it has been ascertained during the course of criminal proceedings that a natural person, acting individually or as a member of a collegial authority of the relevant legal person, has committed a criminal offence in the interests of such legal person based on the right to represent the legal person, operate under the assignment thereof, or take decisions on behalf of the legal person, or in actualising control within the framework of the legal person or while in the service of the legal person, a person directing the proceedings may take a reasoned decision regarding the fact that proceedings are being initiated for the application of coercive measures to the legal person.

(2) Proceedings for the application of coercive measures to a legal person shall take place within the framework of the criminal proceedings in which the natural person referred to in Paragraph two of this Section has been recognised as a suspect or is being held criminally liable.

(3) In initiating proceedings for the application of coercive measures, a person directing the proceedings shall notify the relevant legal person regarding such initiation by sending a copy of a decision, and shall inform regarding the rights and duties of a representative of such person.

Section 440. Circumstances to be Ascertained in Pre-trial Criminal Proceedings

The following shall be ascertained in pre-trial proceedings for the application of coercive measures to a legal person:

1) the circumstances of the committing of the criminal offence;

2) the status of the natural person in the authorities of the legal person;

3) the actual actions of the legal person;

4) the nature of the operations performed by the legal person, and the consequences caused by such operations;

5) the measures performed by the legal person in order to prevent the committing of the criminal offence;

6) the size, type of occupation, and financial situation of the legal person.

Section 441. Completion of Pre-trial Criminal Proceedings

In completing pre-trial proceedings and taking a decision regarding the transferring of a criminal case to a court, a public prosecutor shall indicate, in additional to general requirements, the circumstances referred to in Section 440 of this Law that have been ascertained in proceedings, and the grounds for the application of coercive measures to a legal person.

Division Eight
General Provisions of Court Proceedings

Chapter 40
Criminal cases within the Jurisdiction of a Court

Section 442. Instances of Court Proceedings in a Criminal Case

(1) A district (city) court shall examine all criminal cases as a court of first instance, except for cases within the jurisdiction of a regional court.

(2) A regional court shall have jurisdiction as a court of first instance over criminal cases regarding crimes that have been directed against humanity or peace, criminal cases regarding war crimes, genocide, crimes against the State and the serious or especially serious crimes that are provided for in Sections 117 and 118, Section 153, Paragraphs two and three, Section 154, Section 176, Paragraph four, Section 177, Paragraph three, Section 179, Paragraph three, Section 183, Paragraph two, Section 184, Section 190, Paragraph four, Section 190^1, Paragraphs two and three, Sections 192, 224, and 225, Section 251, Paragraph three, Section 252, Paragraph three, Section 253^1, Section 257, Paragraph two, Section 258, Paragraph two, Section 268, Section 320, Paragraph three, Section 321, Paragraph two, Section 322, Paragraph two, Section 323, Paragraph two, and Sections 348 and 389 of the Criminal Law, all criminal cases in which special procedural protection measures have been performed for witnesses, and all criminal cases regarding criminal offences against morals and sexual inviolability, if such offences have been performed with a juvenile or minor.

(3) A regional court may also examine as a court of first instance cases regarding other criminal offences the acceptance of which in the court proceedings thereof such court considers necessary due to the legal complexity of the cases or due to safety reasons.

(4) A regional court shall examine as a court of appeals an adjudication of a district (city) court appealed in accordance with appellate procedures, and the Chamber of Criminal Cases of the Supreme Court shall examine as a court of appeals an adjudication of a regional court made as a court of first instance.

(5) The Senate of the Supreme Court shall examine as a court of cassation an adjudication of any court appealed in accordance with cassation procedures.

Section 443. Jurisdiction of a Criminal Case on the Basis of the Location where the Criminal Offence was Committed

(1) A criminal case shall be examined by the court in the operational district of which the criminal offence was committed.

(2) If the determination of the location where the criminal offence was committed is not possible, the criminal case shall be within the jurisdiction of the court in the operation district of which pre-trial proceedings were completed.

(3) In cases of prolonged or continued criminal offences, the criminal case shall be within the jurisdiction of the court in the operational district of which the criminal offence was completed or interrupted.

(4) In order to ensure the faster examination of a criminal case, in individual cases it may be examined:

1) on the basis of the location of the disclosure of the criminal offence;

2) on the basis of the location of the coming into effect of the consequences of the criminal offence;

3) on the basis of the location of the majority of the accused or witnesses.

Section 444. Actions with a Criminal Case within the Jurisdiction of Another Court

(1) If a court determines up to the commencement of a court investigation that a criminal case is within the jurisdiction of another court, the criminal case shall be transferred to the relevant court on the basis of jurisdiction.

(2) If a court determines during a court investigation that a criminal case is within the jurisdiction of another court, such court shall continue the initiated proceedings.

Section 445. Transferring to another Court of a Criminal Case within the Jurisdiction of a Court

(1) Until the beginning of a court investigation, a court may propose the transferring of a criminal case within the jurisdiction thereof to another court, if:

1) in transferring the criminal case faster examination thereof may be achieved;

2) criminal cases regarding criminal offences committed by one and the same person exist in two or more courts of the same level; or

3) all the relevant court’s judges have been removed or rejected.

(2) In the case referred to in Paragraph two, Clause 2 of this Section, a court whose court proceedings have a criminal case regarding a less serious criminal offence shall transfer the criminal case to a court whose court proceedings have a criminal case regarding a more serious criminal case.

(3) The chairperson of a court one level higher shall decide a matter regarding the transferring of a criminal case from one court to another court. The decision shall be taken in the manner of a resolution.

[19 January 2006]

Section 446. Inadmissibility of Disputes regarding Jurisdiction

(1) A criminal case transferred from one court to another in accordance with the procedures specified in this Law shall be accepted by such court.

(2) Disputes between courts regarding jurisdiction shall not be permitted.

Chapter 41
Composition of a Court

Section 447. Adjudication of a Criminal Case Singly and Collegially

(1) A court shall be adjudicated in a court of first instance by a judge sitting alone, except for the cases referred to in Paragraphs two and three of this Section.

(2) In a court of first instance, a judge and two lay judges shall collegially adjudicate criminal cases regarding:

1) an especially serious crime;

2) a serious crime, if a public prosecutor, an accused, or his or her defence counsel requests the collegial adjudication of the criminal case in writing.

(3) A judge of a court of first instance may also determine the collegial adjudication of a case if the criminal case is particularly complicated.

(4) In appellate or cassation courts criminal cases shall be adjudicated collegially.

Section 448. Deciding of Matters in Court

(1) Matters that arise in the collegial adjudication of case shall be decided by a court by a majority vote.

(2) In deciding matters related to the adjudication of a criminal case, a judge and a lay judge have equal rights.

(3) No member of the composition of a court is entitled to abstain from voting.

Chapter 42
General Provisions of the Trial of a Criminal Case

Section 449. Directness and Oral Hearing of the Trial of a Criminal Case

(1) A court of first instance shall directly examine evidence in a case.

(2) A person shall provide testimony orally in a court session.

(3) Written evidence and other documents shall be read or played in a court session, except for cases where the person who performs defence, a public prosecutor, and a victim or his or her representative agrees that the reading or playing of such evidence is not necessary.

(4) If a request is justified, a court shall decide regarding an inspection of material evidence.

(5) An examination of evidence during the adjudication of a case may not take place only in the cases, and in accordance with the procedures, specified in this Law.

Section 450. Openness of the Trial of a Criminal Case

(1) A criminal case shall be tried in an open court session.

(2) A criminal case shall be tried in a closed court session, if the protection of a state or adoption secret is necessary.

(3) A court may determine a closed court session with a reasoned decision:

1) in a criminal case regarding a criminal offence committed by a person who has not reached sixteen years of age;

2) in a criminal case regarding a criminal offence against morals and sexual inviolability;

3) in order to not disclose intimate circumstances of the lives of persons involved in criminal proceedings;

4) in order to protect a professional secret or commercial secret;

5) in order to ensure protection of persons involved in criminal proceedings.

(4) Persons involved in criminal proceedings shall participate in a closed court session.

(5) A court adjudication shall be announced publicly. In a criminal case that has been tried in a closed court session, the introductory part and operative part of the court adjudication shall be announced publicly, and the reasoned and descriptive part shall be announced afterwards in a closed session.

Section 451. Right to Become Acquainted with the Materials of a Case

An accused, his or her defence counsel, a public prosecutor, a victim, and his or her representative shall be permitted to familiarise themselves with materials that have been additionally attached to a criminal case after the receipt thereof in a court, make extracts and true copies from such materials, and request the preparation of copies of the necessary case materials, except for the cases provided for by law, but if objective necessity exists, such persons shall be permitted to familiarise themselves with all the materials of a criminal case and request the preparation of copies of the necessary case materials.

Section 452. Unchangeability of the Composition of a Court

(1) A court session in a criminal case shall occur in an unchanging composition of judges.

(2) If a judge is substituted by another judge in the course of the trial of a criminal case, the adjudication of the criminal case shall be commenced *de novo*.

Section 453. Reserve Judges and Reserve Lay Judges

(1) Both a reserve judge and a reserve lay judge may participate in a criminal case for the trial of which a long term is necessary, and such reserve judge and lay judge shall be located in the courtroom during the adjudication of the case. A note regarding such participation shall be made in the minutes of the court session.

(2) If a judge or lay judge is substituted by a reserve judge or lay judge during the trial process of a criminal case, the trial of the case shall continue. In such case, the adjudication of the case shall be completed by the court in the new composition thereof.

Section 454. Chairperson of a Court Session

(1) A court session shall be led by one of the judges who participates in the adjudication of the criminal case (hereinafter – chairperson of a court session).

(2) The chairperson of a court session shall lead the adjudication of a case in such a way that equal opportunity is ensured for the person who implements assistance of a defence counsel, a public prosecutor, and a victim to participate in the investigation of the circumstances of the case.

Section 455. Procedural Rights in Adjudication

(1) In a court session, an accused, his or her representative and defence counsel, a victim and his or her representative, and a public prosecutor have equal rights to submit recusals, submit requests, submit evidence, participate in the examination of evidence, submit written explanations to the court, participate in court discussions, and to participate in the trial of other matters that have arisen during the course of a criminal case.

(2) A court is entitled to acquire evidence on the basis of the initiative thereof, and to examine such evidence in a court session, only in the case where the accused implements defence him or herself, and justified doubts arise for the court regarding his or her mental capacity or possible guilt in the prosecution.

Section 456. Participation of a Public Prosecutor in the Adjudication of a Case

(1) The participation of a public prosecutor in a public prosecution criminal case is mandatory.

(2) A public prosecutor shall maintain State prosecution in a case, justify such prosecution with evidence, express his or her views regarding the circumstances determined during the trial of the case, and participate in court discussions. Several public prosecutors may also maintain State prosecution in a single criminal proceedings.

(3) A public prosecutor may submit and maintain an application regarding a recovery of compensation in the interests of the State.

Section 457. Consequences of the Non-arrival of a Public Prosecutor

(1) If a public prosecutor does not arrive for a court session, the adjudication of the criminal case shall be deferred.

(2) If the reasons for the non-arrival of a public prosecutor are unknown a higher ranking public prosecutor shall be notified regarding the non-attendance thereof.

Section 458. Replacement of a Public Prosecutor during the Trial of a Criminal Case

(1) If the subsequent participation of a public prosecutor in the adjudication of a case is not possible, he or she may be replaced.

(2) In the case of a change of public prosecutor, a court shall continue the adjudication of a case.

(3) A court shall give a public prosecutor who has newly entered a criminal case time to prepare for the trial of the criminal case.

(4) A public prosecutor who has newly entered a criminal case may ask the court to repeatedly hear the testimony of a witness or victim, or the findings of an expert, as well as perform other procedural actions.

Section 459. Duty of a Public Prosecutor to Withdraw from Prosecution

(1) If a public prosecutor admits, during the course of the trial of a criminal case, that a prosecution has not been confirmed either completely or partially, he or she has a duty to completely or partially withdraw from prosecution by submitting to a court the reasoning for the withdrawal approved by a higher ranking public prosecutor.

(2) A public prosecutor may withdrawn from prosecution up until the retiring of the court to the deliberation room for the rendering of a judgment.

Section 460. Consequences of a Withdrawal from Prosecution

(1) If a public prosecutor withdraws from a prosecution without complying with the procedures specified in Section 459, Paragraph one of this Law, the court shall announce an interruption in the court session. If the higher ranking public prosecutor does not change the maintainer of the prosecution, and does not renew the maintenance of prosecution, within a term of three working days up to the recommencement of the court session, a court shall take a decision regarding the termination of the criminal case in connection with the withdrawal from prosecution of the public prosecutor.

(2) In a criminal case in which a decision has been taken regarding the termination thereof in connection with a withdrawal from prosecution of a public prosecutor, the renewal of the proceedings shall be allowed if new circumstances have been disclosed.

(3) The withdrawal from prosecution of a public prosecutor shall not be an impediment to the requesting of consideration for harm in accordance with the procedures specified in the Civil Procedure Law.

Section 461. Duty of a Public Prosecutor to Modify a Prosecution

(1) If a public prosecutor admits, during the course of the trial of a criminal case, that a pursued and issued prosecution is modifiable to a lighter or more serious prosecution, he or she has a duty to modify the prosecution, substantiating such modification.

(2) A public prosecutor may modify a prosecution to a lighter prosecution, if the actual circumstances of the criminal offence do not change, up to the moment when the

court retires to render a judgment, or, in other cases, up to the completion of the court investigation.

Section 462. Modification of a Prosecution during the Course of a Trial

(1) If a public prosecutor modifies a prosecution to a lighter prosecution without the actual circumstances of the criminal offence changing, the new prosecution shall be recorded in the minutes of the court session.

(2) If a public prosecutor modifies a prosecution to a lighter prosecution in connection with a change of the actual circumstances of the criminal offence, or to a more serious prosecution, the new prosecution may be recorded in the minutes of the court session if the actual circumstances of the criminal offence have not changed. The public prosecutor shall submit the new prosecution in writing on the basis of a request of the court, the accused, or his or her defence counsel. If a term is necessary for the modification of the prosecution, the court shall announce an interruption in the court session on the basis of a request of the public prosecutor.

(3) If a public prosecutor admits in a court of first instance that a prosecution is modifiable to a more serious prosecution because other actual circumstances of the criminal offence have been determine in a court session, the court shall announce, on the basis of a request of the public prosecutor, an interruption for the performance of necessary investigative actions and for the drawing up of a new prosecution. The interruption may not be longer than one month.

(4) A court shall announce an interruption in a court session on the basis of a request of an accused or his or her defence counsel or a victim or his or her representative, providing a term to become acquainted with the new prosecution.

Section 463. Participation of an Accused in the Adjudication of a Criminal Case

(1) The participation of an accused in the adjudication of criminal proceedings is mandatory.

(2) If the accused does not arrive for a court session, the adjudication of the criminal case shall be deferred.

(3) If an accused does not arrive for a court session due to an unjustifiable reason, or he or she has not notified regarding the reasons for non-arrival, a court may decide regarding his or her conveyance by force to the court, and regarding the modification or application of a security measure.

Section 464. Trial of a Criminal Case without the Participation of an Accused

A court may adjudicate a criminal case regarding a criminal violation for which a pecuniary penalty, or community service, may be imposed without the participation of the accused, if the accused has submitted to the court a request regarding the adjudication of the criminal case without his or her participation, and his or her defence counsel participates in the court session.

Section 465. Trial of a Criminal Case in the Absence of the Accused *(in absentia)*

(1) A court may adjudicate a criminal case in the absence of the accused, if the accused is located in a foreign state and:

1) his or her whereabouts are unknown;

2) the ensuring of his or her arrival in court is not possible.

(2) A court adjudication that has been taken by adjudicating a case by default shall enter into effect in accordance with general procedures. Nevertheless, an accused may appeal the adjudication in accordance with appellate procedures within a term of 30 days from the day when he or she learned, or he or she should have learned, regarding the adjudication taken by the court.

Section 466. Participation of a Defence Counsel in the Adjudication of a Case

(1) The participation of a defence counsel in the adjudication of a criminal case is mandatory in the cases provided for in this Law and on the basis of a summons of persons involved in proceedings.

(2) A defence counsel shall implement the rights of a person to assistance of counsel, express his or her views regarding the circumstances determined during the course of the adjudication of a case, and participate in court discussions. Several defence counsel may also implement defence in a single criminal proceedings.

Section 467. Consequences of the Non-arrival of a Defence Counsel

(1) If a defence counsel does not arrive for a court session and the replacement of such defence counsel is not possible, the adjudication of the criminal case shall be deferred.

(2) If the reasons for the non-arrival of a defence counsel is unknown, the court shall notify the Latvian Council of Sworn Advocates regarding such non-arrival.

Section 468. Replacement of a Defence Counsel during the Trial of a Criminal Case

(1) If the subsequent participation of a defence counsel in the adjudication of a case is not possible within a reasonable term, he or she may be replaced.

(2) In the case of a change of defence counsel, a court shall continue the adjudication of a case.

(3) A court shall give a defence counsel who has newly entered a criminal case time to prepare for the adjudication of the criminal case.

(4) A defence counsel who has newly entered a criminal case may ask the court to repeatedly hear the testimony of a witness or victim, or the findings of an expert, as well as perform other procedural actions.

Section 469. Participation of a Victim in the Adjudication of a Criminal Case

(1) A criminal case shall be adjudicated with the participation of a victim or his or her representative.

(2) If a victim does not arrive for a court session, a criminal case shall be adjudicated without the presence thereof, except for the cases where the court admits that the participation of the victim in the adjudication of a criminal case is mandatory, or the victim has requested, due to a justifiable reason, that the court session be deferred.

Section 470. Consequences of the Non-arrival of a Witness or Expert

(1) If a witness or expert does not arrive for a court session, the court shall commence the adjudication of the case, if, in accordance with this Law, grounds to defer such court session do not exist.

(2) The procedural sanctions specified in this Law shall be applied to a witness or expert who has not arrived for a court session due to an unjustifiable reason.

Section 471. Procedures during Court Sessions

(1) When the court enters a courtroom and departs from such courtroom, the persons present in the courtroom shall rise.

(2) The persons present in a courtroom shall stand while hearing the introductory part and operative part of the judgment of the court.

(3) Persons present in a court session shall behave so as not to disturb the course of the court session.

(4) The persons present in a court session shall submit without objections to the instructions of the chairperson of the court session, court decisions, and the requirements of the bailiff.

(5) Procedural sanctions may be applied to a person who interferes with order in a courtroom, or such person may be held to the liability, specified by law, regarding contempt of court.

(6) A bailiff for whom the orders of the chairperson of a court session are mandatory shall maintain order in a courtroom.

[19 January 2006]

Section 472. Right to be Present in a Courtroom

(1) The number of persons present in a courtroom shall be determined by the court according to the number of seats in the courtroom.

(2) The close relatives of an accused or victim, or other persons invited by such accused or victim, have priority rights to be present in the adjudication of a criminal case.

(3) Persons under 14 years of age shall not be admitted to a courtroom, unless such person is a person involved in criminal proceedings.

Section 473. Decision taken in a Court Session

(1) Matters that have arisen during the trial of a matter shall be resolved by a court by taking decisions.

(2) The following decisions shall be taken by a court in the deliberation room:

1) regarding the termination of proceedings;

2) regarding a security measure;

3) regarding a recusal;

4) regarding the determination of an expert-examination.

(3) A court shall prepare the decisions referred to in Paragraph two of this Section in the manner of a separate document. A decision shall be signed by the entire composition of a court.

(4) Other decisions may be taken, on the basis of the discretion of the court, both in the deliberation room and by negotiating in the courtroom. Such decisions shall be recorded in the minutes of the court session.

(5) A court decision taken during a trial shall be announced immediately.

(6) A decision regarding the determination of a knowingly false testimony, findings, or translation, or regarding the compelling to provide false testimony, findings, or a translation, or also regarding the determination of an unjustified refusal to provide testimony, findings, or a translation shall be taken by a court simultaneously with a judgment. The decision shall be sent to an investigative institution.

(7) Decisions taken during a trial may be appealed only simultaneously with an appeal of a final adjudication taken by a court, if this Law does not specify otherwise.

Section 474. Correction of Errors in Clerical and Mathematical Calculation

(1) A court may correct errors in the clerical or mathematical calculations in an adjudication on the basis of the initiative thereof or a proposal of a person involved in proceedings. A matter regarding the correction of errors shall be decided in written proceedings.

(2) Errors in clerical or mathematical calculations shall be corrected by taking a decision, which shall be announced to the persons involved in proceedings.

(3) Persons involved in proceedings may submit an ancillary complaint, or ancillary protest, regarding corrections of errors made by a court in an adjudication.

Chapter 43
Joining, Division, Deferral, Suspension, or Termination of Criminal Proceedings

Section 475. Joining of Criminal Proceedings

(1) If one court has two or more criminal cases regarding criminal offences committed by one person or the taking part or participation of several persons in the commitment of one or several criminal offences, the criminal proceedings regarding such

offences shall be combined, except for cases where the joining of criminal proceedings would substantially complicate the adjudication of the criminal case.

(2) Criminal proceedings may be combined up to the commencement of a court investigation with a decision of a judge or court.

(3) In combining criminal proceedings, materials regarding a lighter criminal offence shall usually be attached to a criminal case regarding a more serious criminal offence.

[19 January 2006]

Section 476. Division of Criminal Proceedings

(1) Criminal proceedings in which several persons, or one person, are prosecuted regarding several criminal offences may be divided in the interests of the accused or the victim, if the division does not interfere with the achievement of the purpose of the criminal proceedings.

(2) A court shall take a decision regarding the division of criminal proceedings that shall also simultaneously be recognised as a decision regarding the initiation of new criminal proceedings. The date of the initiation of the new criminal proceedings is the date of the taking of the decision.

(3) A decision shall indicate the grounds for the division of criminal proceedings, the personal data of the accused, the essence of the prosecution, the section, paragraph, and clause of the Criminal Law on the basis of which the prosecution has been pursued, the security measure and the date, term, and other conditions of the application thereof, as well as the direction of the proceedings after the division thereof.

(4) If the ascertaining of the person who has committed a criminal offence is necessary in the materials divided out from criminal proceedings, a court shall send such materials to an investigative institution or Office of the Prosecutor.

(5) If the reasons for the division of criminal proceedings is the evasion of one or several accused from court, a court shall decide, simultaneously with a decision regarding the division of criminal proceedings, regarding the suspension of the trial of a criminal case in divided criminal proceedings.

(6) A decision regarding the division of proceedings shall be sent to a public prosecutor, accused, and victim.

Section 477. Deferral of a Trial

(1) If the adjudication of a criminal case is not possible in connection with the fact that one of the persons summoned to the court session has not arrived at such session, a court shall take a decision regarding the deferral of a trial for a specific term.

(2) In deferring adjudication, a court shall decide regarding the conveyance by force to a court session of a person who has not arrived for such court session, or regarding the application of procedural sanctions.

(3) In recommencing adjudication after the deferral thereof, a court may not repeat previously performed procedural actions.

Section 478. Suspension of Criminal Proceedings due to the Interpretation of a Legal Provision

(1) If a court considers that a legal provision that has been applied in concrete criminal proceedings does not comply with a legal provision (act) of higher legal effect, such court shall issue an application regarding the initiation of the case in the Constitutional Court, simultaneously suspending court proceedings in the criminal case until an adjudication of the Constitutional Court enters into effect.

(2) If a preliminary adjudication of the Court of Justice of the European Communities regarding an interpretation and the validity of a legal provision of the European Union (Communities) is necessary for the adjudication of a concrete case, a court shall send the ambiguous matter to the Court of Justice of the European Communities in the manner of a reasoned decision, simultaneously suspending criminal proceedings in the criminal case until the receipt of the preliminary adjudication.

(3) In suspending court proceedings due to the ambiguity of an interpretation of a legal provision, a court shall decide regarding a determination of the necessary compulsory measure or property attachment, yet without violating the procedural term specified by law.

Section 479. Suspension of Criminal Proceedings due to the Illness of an Accused

(1) If an accused has fallen ill with mental disturbances or another serious illness, and will not be able to participate in a court session for a long period of time, a court shall suspend criminal proceedings until the accused has recovered.

(2) In the case referred to in Paragraph one of this Section, a court may determine an expert-examination for an accused.

(3) If an accused has recovered, a judge shall renew adjudication by writing up a decision in the manner of a resolution.

(4) If the contraction of mental disturbances has been recognised as untreatable and excludes the application of a criminal penalty, criminal proceedings shall be terminated, and proceedings for the determination of compulsory measures of a medical nature shall be continued.

Section 480. Suspension of Criminal Proceedings in Connection with the Evasion of Court of an Accused

(1) If an accused evades court, the court shall take a decision regarding a search for the accused and regarding the suspension of criminal proceedings until the time when the accused is found.

(2) A decision regarding a search for an accused shall be executed by the police institution specified by the court.

(3) After the finding of an accused, a judge shall renew adjudication by writing up a decision in the manner of a resolution.

Section 481. Termination of Criminal Proceedings in a Court Session

(1) A court shall dismiss criminal proceedings in the following cases:

1) if such court determines, during a trial, the circumstances indicated in Section 377 of this Law that do not allow for criminal proceedings;

2) if a public prosecutor has withdrawn from prosecution;

3) in order to continue proceedings for the determination of compulsory measures of a medical nature.

(2) A court may dismiss criminal proceedings, releasing a person from criminal liability, in the cases specified in Section 379 of this Law.

(3) In a decision regarding the termination of criminal proceedings, a decision shall be taken regarding the applied security measure, measures for ensuring compensation of harm and possible confiscation of property, other procedural compulsory measures, as well as regarding the material evidence.

Chapter 44
Recording of the Course of a Court Session

Section 482. Minutes of a Court Session

(1) The minutes of a court session is a procedural document in which the course of the adjudication of a case and the decisions taken in the court session shall be recorded.

(2) If one of the persons who participate in adjudication has objections against the actions of the chairperson of a session, such objections shall be recorded in the minutes of the court session.

(3) In the cases provided for in this Law, minutes shall also be recorded regarding procedural actions performed outside the courtroom.

(4) Written speeches submitted by members of court discussions may be attached to the minutes.

Section 483. Recording of the Course of a Court Session with Technical Means

(1) During a trial, the court of a court session shall be recorded in full amount using sound or image recordings or other technical means, and a note regarding such recording shall be made in the minutes of the court session.

(2) Materials obtained as a result of the utilisation of the technical means referred to in Paragraph one of this Section shall be attached to a criminal case and stored until the day when the limitation period specified by law ends for the most serious criminal offence incriminated for an accused.

Section 484. Recording of the Course of a Court Session in the Minutes of the Court Session

(1) The secretary of a court session shall write the minutes of the court session, and such minutes shall be signed by the chairperson of the court session and the secretary.

(2) In commencing the adjudication of a case, the following shall be indicated in the minutes of the court session:

1) the time and place of the court session (also the beginning and end of the court session);

2) the composition of the court, the secretary of the court session, as well as the interpreter, if he or she participates in the court session;

3) the given name and surname of the accused, and the criminal offence in connection with the prosecution;

4) the given name and surname of the public prosecutor and defence counsel, if such persons participate in the court session;

5) the given name and surname of the victim and his or her representative, if such persons participate in the court session;

6) the essence of the requests submitted to the court, if such requests have been submitted, and the content of the decisions taken by the court in relation to such requests.

(3) The following shall also be recorded in minutes after the commencement of a court investigation:

1) the attitude of the accused toward the prosecution;

2) the given name and surname of the witnesses, experts, and other persons involved in proceedings who have arrived;

3) court orders and decisions that have not been taken in the manner of separate procedural documents;

4) information regarding an examination of material evidence or documents.

(4) If the course of a court session is not recorded using sound and image recordings or other technical means, the testimony of the accused, victim, witness, and experts, and explanations of other persons involved in proceedings shall be recorded in the minutes of the court session.

(5) Minutes of separate procedural actions performed outside of a courtroom shall comply with the requirements referred to in this Section.

(6) Corrections in minutes shall be justified before the signature of the secretary of a court session. Incomplete lines and other blank spaces in the minutes shall be crossed out.

(7) The content of minutes shall not be extinguished, blocked out, or corrected in another manner by applying mechanical effects.

(8) The minutes of a court session shall be drawn up within a term of three working days after the day of the announcement of a court judgment. After such term, a public prosecutor, a person who performs defence, and a victim may familiarise themselves with the minutes and, within a term of three working days, submit notes regarding such minutes or also request the sending of a copy of the minutes.

Section 485. Rights of Other Person to Record the Course of a Court Session

Other persons who are not employees of a court may make a sound and image recording during a court session without interfering with the procedure of the court, if the

court permits such recording and the accused, his or her defence counsel, a public prosecutor, victim, and witnesses agree to such recording.

Division Nine
Adjudication of a Case in a Court of First Instance

Chapter 45
Preparation of a Criminal Case for Trial

Section 486. Actions of a Court after the Receipt of a Criminal Case

(1) After the receipt of a criminal case, a court shall examine whether:

1) the case is under the jurisdiction of such court;

2) a prosecution has been attached to the criminal case;

3) a copy of the prosecution has been issued to the accused;

4) the opportunity has been ensured for the accused to familiarise him or herself with case materials and the right to assistance of a defence counsel.

(2) If it is determined that a criminal case is under the jurisdiction of another court, a judge shall send the criminal case to the court that has jurisdiction.

(3) If it has been established that the provisions of Paragraph one, Clauses 2, 3, and 4 of this Section has not been complied with, a judge shall send the criminal case to a higher ranking public prosecutor for the elimination of deficiencies.

Section 487. Preparation of a Case for Trial in Accordance with Urgent procedures

(1) In receiving a criminal case that has been transferred to a court for adjudication in accordance with urgent procedures, the court shall examine, in addition to the provisions of Section 486 of this Law, whether the time and place of the trial indicated in the decision of a public prosecutor regarding the transferring of the criminal case to the court has been co-ordinated with the court.

(2) The operations provided for in Sections 488 and 489 of this Law shall be performed only in cases where the modification of the time and place of the trial of a criminal case is necessary.

Section 488. Time of the Trial of a Criminal Case

(1) A judge shall take a decision, in his or her court proceedings, regarding the time and place of the trial of a criminal case not later than within a term of three working days after the receipt of the criminal case. The decision shall be written in the manner of a resolution.

(2) The adjudication of a criminal case shall be commenced as soon as possible.

(3) If a security measure related to a deprivation of liberty has been applied to an accused, the adjudication of a criminal case shall be commenced not later than within a term of four weeks after the receipt thereof.

(4) If a security measure related to a deprivation of liberty has been applied to an accused who is a minor, the adjudication of a criminal case shall be commenced not later than within a term of four weeks after the receipt thereof.

(5) If compliance with the terms referred to in Paragraphs three and four of this Section is not possible due to objective conditions, a judge may determine with a reasoned decision thereof a later time for the commencement of the trial of a criminal case.

Section 489. Notifying Summoned Persons, a Public Prosecutor, and a Defence Counsel regarding a Court Session

(1) After the determination of the time of a court session, a judge shall immediately give an order for the court chancellery to invite summoned persons to a court session and to notify a public prosecutor and defence counsel regarding the time of the court session.

(2) If the adjudication of a criminal case is intended for a longer term, a judge may give an order to summon a witness or expert to another time, instead of to the beginning of the court session.

Section 490. Modification of the Term of the Trial of a Criminal Case

If it becomes known up to the trial of a criminal case that an accused or victim will not be able to arrive at a court session due to a justifiable reason, or if there are other circumstances why the trial of the case may not take place at a specific time, a judge shall determine another term for the trial of the criminal case.

Section 491. Matters to be Decided in Preparing a Criminal Case for Trial in a Court Session

In preparing a criminal case for trial in a court session, a judge shall decide the following matters:

1) regarding the retaining of a defence counsel;

2) regarding the summoning of an interpreter;

3) regarding the collegial adjudication of a case or the adjudication of a case by a judge sitting alone;

4) regarding the adjudication of the matter in an open or closed court session;

5) whether the matter may be adjudicated with or without an examination of evidence in a court session;

6) regarding the ensuring of compensation or the possible confiscation of property, if there is a relevant application;

7) other matters regarding which a request of an accused, defence counsel, public prosecutor, victim or representative of the victim has been submitted;

8) regarding the requesting of an assessment report from the State Probation Service.

Section 492. Fulfilment of a Decision taken in relation to Compensation or the Possible Confiscation of Property

A decision taken in relation to the ensuring of compensation or the possible confiscation of property shall be issued to the submitter and fulfilled in accordance with the procedures specified by law.

Chapter 46
Trials

Section 493. Opening of a Court Session

The chairman of a court session shall open the court session by notifying which case will be in adjudication, and by announcing the composition of the court.

Section 494. Verification of the Attendance of Summoned Persons

(1) The chairperson of a court session shall notify regarding which persons summoned to such case have arrived, whether the persons who have not arrived have been notified regarding the court session, and regarding the information that has been received regarding the reasons for the non-arrival thereof.

(2) If an accused has refused the participation of a defence counsel in proceedings, he or she shall sign regarding such refusal in the minutes of the court session.

Section 495. Exclusion of Witnesses from a Courtroom

A witness shall not be present in a courtroom until the commencement of an examination thereof.

Section 496. Deciding of Submitted Requests

(1) A public prosecutor, victim, or an accused or his or her representative may submit requests to a court.

(2) A court shall decide a submitted request after hearing the views of the persons referred to in Paragraph one of this Section.

(3) During the course of a court session, a person may repeatedly submit rejected requests.

Section 497. Maintenance of Prosecution

A court investigation shall begin with the maintenance of prosecution by a public prosecutor briefly outlining the essence of the prosecution.

Section 498. Attitude of an Accused toward Prosecution

(1) After hearing a prosecution, the chairperson of a court session shall ascertain whether the accused understands the criminal offence regarding the committing of which he or she is being accused, and whether he or she admits his or her guilt.

(2) The attitude of an accused toward a prosecution shall be recorded in the minutes of a court session, and the accused shall sign such minutes.

Section 499. Non-Conducting of an Examination of Evidence

(1) A court may take a decision regarding the non-conducting of an examination of evidence in relation to an entire prosecution or the independent part (episode) thereof only with the condition that:

1) the accused admits his or her guilt in the entire prosecution directed against him or her or in the relevant part thereof;

2) the court does not have any doubts regarding the guilt of the accused after an examination of case materials;

3) the accused, or, in cases of mandatory defence, also his or her defence counsel and representative, agrees to the non-conducting of such examination.

(2) Before deciding a matter regarding the non-conducting of an examination of evidence, a court shall ascertain the views of the public prosecutor, the person who performs defence, and a victim and his or her representative regarding such non-conducting of the examination, and shall explain to such persons the procedural essence and consequences of the non-conducting of the examination of evidence.

(3) After a decision has been taken regarding the non-conducting of an examination of evidence, a court shall examine the personal characterising data of the accused and take up court discussions.

(4) After court discussions, a court shall hear the last word of the accused, and render and announce a judgment. Such judgment may be appealed in accordance with appellate procedures only in the part regarding the penalty imposed by the court, or in connection with the allowed violations of the proceedings.

Section 500. Procedures for the Examination of Evidence

(1) A court shall commence an examination of evidence by hearing the testimony of a victim and the testimony of the witnesses indicated by the public prosecutor, as well as examine other evidence submitted by the public prosecutor.

(2) After an examination of the evidence indicated by the public prosecutor, a court shall hear the witnesses indicated by the accused or his or her defence counsel, and examine other evidence submitted by him or her.

(3) A court may determine another procedure for the examination of evidence on the basis of a request of the public prosecutor, victim, or accused or his or her defence counsel.

Section 501. Reading or Playing of Testimony

Testimony previously given by any person in concrete criminal proceedings may be read or played in court, if:

1) there are important contradictions between such testimony and the testimony given in court;

2) the testifier has forgotten some circumstances of the case;

3) the testifier is not present at the court session due to a reason that excludes the possibility to arrive in court;

4) the testifier evades appearance in court or refuses to testify;

5) the court agrees to the instruction of a psychologist that the persons referred to in Section 152, Paragraph four of this Law shall not be examined in a court session or with the intermediation of a psychologist.

Section 502. Procedures for the Asking of Questions

(1) An accused, his or her defence counsel, a public prosecutor, a victim, and his or her representative may ask the persons who are giving testimony in court questions with the permission of the court. The court shall reject questions that do not apply to the case.

(2) A public prosecutor shall be first to ask questions of a victim and other persons summoned by the public prosecutor.

(3) An accused and his or her defence counsel, or other accused and the defence counsel thereof, shall be the first to ask questions of the persons summoned by the accused or his or her defence counsel.

(4) A court may ask questions at any moment during the adjudication of a case.

Section 503. Testimony of an Accused

(1) After the examination of evidence referred to in Section 500 of this Law, the chairpersons of a court shall ask an accused whether he or she wishes to give testimony.

(2) If an accused has expressed consent to provide testimony, the first to ask him or her questions shall be his or her defence counsel and the defence counsel of other accused.

(3) An accused may submit his or her testimony to a court in writing. Written testimony shall be read, except for the case specified in Section 449, Paragraph three of this Law.

Section 504. Completion of a Court Investigation

After the completion of an examination of evidence, if additional requests have not been expressed, a court shall announce the court investigation as finished and transport to court discussions.

Section 505. Court Discussions

(1) A public prosecutor shall be the first to speak in court discussions, then a victim or his or her representative, and an accused or his or her defence counsel.

(2) If several victims or the representatives thereof, or several accused or the defence counsel thereof, participate in court discussions, the order of speeches shall be determined after the hearing of the views of persons involved in proceedings.

(3) The length of court discussions shall not be restricted.

(4) A participant in a court discussion may submit his or her speech to the court in writing, and such speech shall be attached to a case.

Section 506. Content of Court Discussions

(1) A public prosecutor shall substantiate his or her views regarding the guilt or innocence of an accused in an indictment speech during court discussions, and shall express his or her views regarding the type and amount of a penalty to be applied to the accused.

(2) During court discussions, a victim shall maintain an action regarding consideration for harm, and may express him or herself regarding a penalty to be applied to an accused.

(3) An accused or his or her defence counsel shall give a defence speech during court discussions.

(4) Members of court discussions may substantiate the conclusions thereof only with evidence examined in a court investigation. If an examination of new evidence is necessary, a member of court discussions may request for the court to recommence the court investigation.

(5) In a case during the adjudication of which an examination of evidence has not been performed, members of court discussions shall express themselves only regarding a penalty to be applied, and the type and amount thereof.

(6) The chairperson of a court session may interrupt the speech of a member of court discussions, if he or she speaks regarding circumstances that do not have any relation to the case.

Section 507. Rights to Reply

(1) After court discussions, each of the members thereof has the right to one reply regarding the content of the speeches.

(2) A defence counsel has the right to the last reply. If the defence counsel does not participate in a court session, the accused has the right to the last reply.

Section 508. Last Word of an Accused

(1) After the completion of court discussion, the chairperson of the court session shall invite the accused to say the last word.

(2) An accused shall be permitted to refuse the last word.

(3) The duration of the last word of an accused shall not be restricted. The chairperson of a court session may interrupt the last word of an accused, if he or she speaks regarding circumstances that do not have any relation to the case.

(4) During the last word, the asking of questions of an accused shall not be permitted.

Section 509. Recommencement of a Court Investigation

(1) If, during court discussions, the members thereof provide information in the speeches thereof, or an accused provides information during the last word, regarding new circumstances that have significance in a case, or if such persons refer to evidence that was not examined during the court session but that apply to the case, a court, on the basis of a request of a member of the discussions or on the basis of the initiative of such court, shall take a decision regarding a recommencement of a court investigation, and shall conduct the court investigation.

(2) After the completion of a recommenced court investigation, a court shall re-open court discussions and give the accused the last word.

Section 510. Retirement of the Court to the Deliberation Room for the Rendering of a Judgment

(1) After the last word of an accused, a court shall retire to the deliberation room to render a judgment, and the chairperson of the court session shall notify the persons present in the court session regarding such judgment, determining the time and place of the announcement of the judgment.

(2) If, during a complicated case, a court recognises that the rendering of a court judgment in such court session is not possible, such court shall determine the next court session within a term of the next 14 days, wherein such court will announce a judgment.

Chapter 47
Judgments

Section 511. General Provisions for the Rendering of a Judgment

(1) A court adjudication with which a case is adjudicated on the basis of the essence thereof shall be made in the manner of a court judgment, and announced in the name of the State.

(2) A judgment shall be lawful and justified.

Section 512. Lawfulness and Justification of Judgments

(1) In rendering a judgment, a court shall base such rendering on the norms of substantive and procedural rights.

(2) A court shall justify a judgment with evidence that has been examined in a court session, or with evidence for which, in accordance with the provisions of Section 125 of this Law, an examination is not necessary.

Section 513. Confidentiality of Court Deliberations

(1) Court deliberations shall take place in a deliberation room. During deliberations, only the composition of the court that is adjudicating a case shall be present in such room.

(2) A court may interrupt deliberations in order to rest, as well as on free days and holidays.

(3) During a break, judges are prohibited from gathering information regarding a case being considered, or disclosing views expressed during deliberations, as well as the content of rendered adjudications.

Section 514. Matters to be Decided during Court Deliberations

(1) During deliberations, a court shall decide the following matters in a deliberation room:

1) whether the criminal offence incriminating the accused took place;

2) whether such offence constitutes a criminal offence, and the Section, Paragraph and Clause of the Criminal Law that provides for such offence;

3) whether the accused is guilty of such criminal offence;

4) whether the accused is punishable regarding such criminal offence;

5) whether circumstances exist that aggravate or mitigate the liability of the accused;

6) the type and amount of basic penalty that shall be imposed on an accused, and whether he or she shall serve such penalty;

7) whether an additional penalty is to be imposed on the accused, and what penalty is to be imposed;

8) whether the compulsory measures of a medical nature provided for in Section 68 of the Criminal Law shall be determined for the person who has been recognised as having diminished mental capacity;

9) whether a security measure shall be maintained, modified or applied for the accused;

10) whether an action regarding consideration for harm is to be satisfied, and for the benefit of whom, and in what amount, such consideration is to be recovered;

11) how to handle material evidence and other things seized during proceedings, and property upon which an attachment has been imposed;

12) regarding confiscation or recovery of criminally acquired resources;

13) from whom court expenditures are to be recovered.

(2) If an accused has been transferred to a court regarding several criminal offence, a court shall decide the matters referred to in Paragraph one of this Section separately for each criminal offence.

(3) If several accused have been transferred to a court regarding a criminal offence, a court shall decide the matters referred to in Paragraph one of this Section separately for each accused.

Section 515. Procedures for Court Deliberations

(1) The chairperson of a court session shall lead court deliberations.

(2) The chairperson of a court session shall ask each question in such a way that only an affirmative or negative answer may be given.

(3) The judges shall vote in deciding each separate question. The chairperson of a court session shall express his or her views and vote last.

Section 516. Dissenting Conclusions of a Judge

(1) The chairperson of a court session, or a lay judge, who has a dissenting conclusion shall express such conclusion in writing.

(2) A dissenting conclusion shall be attached to a case in a closed envelope, and only a court of higher instance may become acquainted with such conclusion in the case of an appeal of such court adjudication. In announcing a judgment, a dissenting conclusion shall not be announced.

Section 517. Recommencement of a Court Investigation after Court Deliberations

(1) If, during deliberations, a court considers necessary the ascertaining of circumstances that have significance in a case, the court shall take a decision, without rendering judgment, regarding a recommencement of a court investigation.

(2) After the completion of a court investigation, a court shall reopen court discussions, hear the last word of an accused, and retire to deliberate for the rendering of a judgment.

Section 518. Types of Judgments

A court judgment may be affirmative or negative.

Section 519. Grounds for the Rendering of a Judgment of Acquittal

A court shall render a judgment of acquittal, if:

1) the offence committed by an accused does not constitute a criminal offence;

2) the participation of the accused in the criminal offence has not been proven.

Section 520. Grounds for the Rendering of a Judgment of Conviction

(1) A court shall render a judgment of conviction, if the guilt of the accused in the criminal offence has been proven during the course of the trial.

(2) A judgment of conviction may not be rendered, if the guilt of the accused has been proven only with the testimony of persons whose identity has not been disclosed in the interests of special procedural protection, and if no other evidence in the case exists.

Section 521. Rendering of a Judgment of Conviction, Without Imposing a Penalty

A court may render a judgment of conviction without imposing a penalty, if the circumstances referred to in Section 379, Paragraph one, Clauses 1 and 3 of this Law have been determined.

Section 522. Application of Compulsory Measures of a Correctional Nature to a Minor

(1) If a court recognises that an accused who is a minor has committed a criminal offence, the court, observing the special circumstances of the committing of such offence, and the information acquired regarding the guilty person, that mitigate the liability of such minor, may release him or her from the imposed penalty and apply the compulsory measure of a correctional nature provided for by law.

(2) In applying compulsory measures of a correctional nature, a court shall take into account the nature and danger of the criminal offence, the personal characterising data of the accused person, and the circumstances that aggravate and mitigate his or her liability.

Section 523. Writing of a Judgment

(1) After the deciding of the matters referred to in Section 514 of this Law, a court shall write a judgment composed of an introductory part, a descriptive part, a reasoned part, and an operative part. The judgment shall be written in the official language.

(2) A judgment shall be signed by all the judges who participated in adjudication. A judge who has a dissenting conclusion shall also sign the judgment.

(3) Corrections to the text of a judgment shall be justified before the signing of such judgment.

Section 524. Introductory Part of Judgments

(1) The following shall be indicated in the introductory part of a judgment:

1) that the judgment has been rendered in the name of the State;

2) the date of the announcement of the judgment;

3) the name of the court that rendered the judgment;

4) the composition of the court;

5) the public prosecutor and defence counsel;

6) the given name, surname, and personal identity number (or, if such number does not exist, the date and place of birth) of the accused;

(2) The section, paragraph, and clause of the Criminal Law on the basis of which the person was prosecuted.

Section 525. Descriptive Part and Reasoned Part of a Judgment of Acquittal

(1) The descriptive part of a judgment of acquittal shall indicate the essence of the prosecution.

(2) The reasoned part of a judgment of acquittal shall indicate:

1) the circumstances of the event ascertained by the court;

2) the grounds for the acquittal of the accused and the evidence that confirms such acquittal;

3) the reasons why the court rejects the evidence with which the prosecution has been justified;

Section 526. Operative Part of a Judgment of Acquittal

(1) The operative part of a judgment of acquittal shall indicate a court decision:

1) regarding the fact that an accused (referring to his or her given name and surname) has been found innocent in the prosecution pursued against him or her (referring to the section, paragraph, and clause of the Criminal Law in which the relevant criminal offence has been provided for) and acquitted;

2) regarding the revocation of a security measure;

3) regarding the revocation of means for ensuring the confiscation of property and the consideration of harm, if such confiscation and consideration have been applied;

4) regarding the work remuneration of an advocate;

5) regarding the sending of a case, or a part thereof, for pre-trial investigation, if a criminal offence has taken place but a court has not determined the guilt of the accused person transferred to such court.

(2) If a court renders a judgment of acquittal, such court shall leave without adjudication an application regarding the consideration of harm caused as a result of an offence. The leaving of an application without adjudication shall not be an impediment to the raising of a claim for compensation for harm in accordance with the procedures specified by the Civil Procedure Law.

Section 527. Descriptive Part and Reasoned Part of a Judgment of Conviction

(1) The descriptive part of a judgment of conviction shall provide a description and legal qualification of a criminal offence, referring to the time and place of the committing thereof, the manner of committing, the form of guilt and motives of the accused, and the consequences of such offence.

(2) The reasoned part of a judgment of conviction shall indicate:

1) the evidence on which the conclusions of the court have been based;

2) the reasons why the court rejected other evidence;

3) the aggravating and mitigating circumstances of the liability of the accused;

4) the reasons why part of the prosecution has been recognised as unproven, if the court has so recognised;

5) the reasons for the modification of prosecution, if the prosecution was modified in court;

6) the reasons regarding the application of the concrete penalty;

7) the deciding of the matters related to the execution of the judgment, if necessary;

(3) If, based on a taken decision, an examination of evidence has not been performed in a court session, a court shall indicate in a judgment that the guilt of the accused has been proven. In such cases, an analysis of evidence and an inventory thereof shall not be necessary.

Section 528. Operative Part of a Judgment of Conviction

(1) The operative part of a judgment of conviction shall indicate a court decision regarding:

1) the fact that an accused (referring to his or her given name and surname) has been found guilty of a criminal offence (referring to the section, paragraph, and clause of the Criminal Law in which the relevant criminal offence has been provided for);

2) the type and amount of a penalty applied to an accused regarding each criminal offence, and the final sentence that must be served;

3) the releasing of an accused from a criminal sentence, if he or she may be released from such sentence;

4) the application of a compulsory measure of a correctional nature, if a minor has been released from a criminal sentence;

5) the deduction in the term of the penalty of the term of security measures related to the deprivation of liberty applied to an accused;

6) the term of an examination in the case of a suspended sentence;

7) the security measure;

8) the acquittal of the accused in a part of the prosecution, if the court has recognised such acquittal;

9) compensation for injury;

10) ensuring of compensation for injury or a confiscation of property, if such compensation or confiscation has not be previously performed;

11) confiscation or recovery of criminally acquired resources;

12) recovery of the work remuneration of an advocate from an accused or regarding the releasing of him or her from such recovery;

13) fee for the victim compensation fund;

14) the releasing of an accused from detention, house arrest, or a social correctional educational institution in a courtroom, if a penalty not related to deprivation of liberty has been specified for him or her.

(2) In applying a suspended sentence, a court shall decide regarding the term of an examination, the duties that are to be imposed on the person who has received the suspended sentence, and the person for whom supervision of the person who has received the suspended sentence is to be assigned.

(3) A court may, with the consent of the accused, impose upon a person who has received a suspended sentence and who has committed a criminal offence under the influence of alcohol, narcotic, psychotropic, or toxic substances the duty to get treatment for addiction to alcohol, narcotic, psychotropic, or toxic substances, assigning the relevant State Probation Service office and medical institution the control of the execution of such duty.

[19 January 2006]

Section 529. Additional Matters of the Operative Part of a Judgment of Conviction or Acquittal

The operative part of a judgment shall additionally indicate a court decision regarding:

1) actions with material evidence and documents;

2) consideration for procedural expenditures;

3) the procedures and terms for the appeal of the judgment;

4) the term of the preparation of the full judgment, if an abridged judgment has been announced in the case.

Section 530. Abridged Judgments

(1) A court may prepare a judgment in an abridged form, consisting of an introductory part, a descriptive part, and an operative part.

(2) If a court has prepared an abridged judgment, the court shall prepare the full judgment within a term of 14 days, announcing the date of the availability thereof.

Section 531. Pronouncement of a Judgment

(1) A court shall pronounce a judgment by the chairperson of a court session reading an abridged or full judgment.

(2) If a full judgment has been prepared, a copy of the judgment shall be immediately issued to the accused and public prosecutor, as well as the defence counsel and victim on the basis of an application thereof.

[19 January 2006]

Section 532. Releasing of an Accused in a Courtroom

(1) After the pronouncement of a judgment, a court shall immediately release the following from detention, house arrest, or a social correctional educational institution:

1) an acquitted person;

2) an accused for whom a criminal sentence has not been specified;

3) an accused who has been released from a criminal sentence;

4) an accused to whom a penalty related to deprivation of liberty has been imposed and for whom the time spent in detention, house arrest, or in a social correctional educational institution at the moment of the pronouncement of the judgment reaches or exceeds the term for deprivation of liberty specified in the judgment;

5) an accused for whom a penalty of deprivation of liberty has been imposed conditionally;

6) an accused for whom a penalty not related to deprivation of liberty has been imposed.

Section 533. Ancillary Court Decision

(1) A court may take an ancillary decision, simultaneously with a final adjudication, in which violations of legal norms determined in a criminal case shall be indicated for a

competent authority or official, as well as the causes and facilitating circumstances thereof, and the elimination thereof shall be requested.

(2) A court may take an ancillary decision, based on materials of the trial of a criminal case, regarding an expression of recognition to a person who has provided substantial assistance in the disclosure and elimination of a criminal offence, as well as regarding other facts, if considered necessary.

(3) The authority or official who has received an ancillary court decision shall perform the necessary measures and notify the court regarding the results thereof not later than within a term of one month.

(4) An ancillary court decision shall enter into effect simultaneously with a judgment.

Section 534. Protection of the Property and Dependants of an Accused

If, in rendering a judgment of conviction, a court applies a security measure related to deprivation of liberty to an accused, and therefore a minor or another person under the guardianship or custody of the accused is left without supervision and care, or the property of the accused is left without supervision, the court shall ensure the protection measures referred to in Section 248 of this Law.

Section 535. Issuance of a Copy of a Judgment to an Accused

(1) The day of the availability of a judgment is the day when the judgment may be received in the court chancellery, or, for a person in detention under house arrest or in a social correctional educational institution, the day when such person is given the opportunity to familiarise him or herself with the judgment in a language understood by him or her.

(2) If an accused is in detention under house arrest or in a social correctional educational institution, a court shall send a copy of a full judgment to the accused not later than the next working day after the preparation of the full judgment.

(3) If a judgment has been rendered in a language that the accused does not understand, a court shall ensure a written translation of the judgment in a language understood by him or her.

[28 September 2005]

Chapter 48
Special Features of Court Proceedings in the Case of a Settlement between a Victim and an Accused

Section 536. Report regarding a Settlement between a Victim and an Accused

(1) A victim and an accused may notify regarding a settlement in the case provided for in the Criminal Law up to the retirement of the court to the deliberation room.

(2) If a settlement has been submitted in writing, such settlement shall be attached to a case. The settlement shall indicate that such settlement has been entered into voluntarily and that the victim understands the consequences of the settlement.

(3) If an accused submits a written settlement without the presence of a victim, and the victim is a natural person, the settlement must be notarially certified.

(4) If a victim and an accused notify orally regarding a settlement during a court session, an entry shall be made regarding the settlement in the minutes of the court session, and the victim and the accused shall sign regarding such settlement.

(5) Before the signing of a settlement or after the receipt of a written settlement, a court shall verify whether such settlement has been entered into voluntarily, and whether the victim understands the consequences of the settlement.

Section 537. Examination of the Materials of a Case in the Case of a Settlement

(1) If a settlement is submitted, or the minutes of a court session are signed regarding such settlement, after a court investigation has been commenced, and the court has no doubts regarding the guilt of the accused, such court shall interrupt the investigation and transport to court discussions.

(2) If a victim and an accused notify regarding a settlement during court discussions, the court shall interrupt the discussion and give the accused the last word.

(3) If a victim and an accused notify regarding a settlement after court discussions, the court shall give the floor to the members of the court discussions for the expression of views.

Section 538. Consequences of a Settlement

If a victim and an accused notify regarding a settlement up to the retirement of a court to the deliberation room, the court may take a decision, without examining court materials, regarding the releasing of the accused from criminal liability and the termination of criminal proceedings.

Chapter 49
Special Features of Court Proceedings in relation to an Agreement entered into during Pre-trial Proceedings

Section 539. Preparation of a Criminal case for Adjudication in a Court Session in Agreement Proceedings

(1) After the receipt in court of a criminal case submitted in accordance with agreement procedures, the judge shall examine, in addition to that which is specified in Section 486 of this Law, whether the agreement was entered into in pre-trial proceedings in accordance with the procedures specified in this Law, and that a violation of the norms of the Criminal Law has not been allowed. In determining a violation, the judge shall send the case to the public prosecutor for elimination of the violation.

(2) The adjudication of a criminal case in agreement proceedings shall commence within a term of 21 days from the day when such case was received in the court proceedings of a judge.

Section 540. Composition of a Court

A judge shall adjudicate a criminal case in agreement proceedings sitting alone.

Section 541. Court Investigation

(1) A court shall commence an investigation by becoming acquainted with an agreement, which shall be read by a public prosecutor.

(2) After hearing an agreement, a court shall ascertain whether the accused understands the criminal offence for the committing of which he or she is being prosecuted, whether he or she considers him or herself guilty, whether he or she signed the agreement consciously and voluntarily, and whether he or she understands the consequences thereof and agrees that the entered into agreement will be complied with.

(3) A court shall offer an accused and his or her representative the opportunity to provide explanations regarding the circumstances of the entering into of an agreement.

(4) A court shall ascertain the attitude of a defence counsel and public prosecutor toward an agreement.

(5) A court shall also hear other persons summoned in a case.

(6) At the end of a court investigation, the court shall invite the members of the court session to express requests, and shall decide regarding the satisfying or rejection of such requests.

(7) After the deciding of a submitted request, a court shall retire to the deliberation room to render a judgment, notifying the persons present at the court session regarding such judgment.

Section 542. Adjudications of a Court in Agreement Proceedings

(1) A court shall take one of the following adjudications in the deliberation room:

1) a decision regarding the termination of a case, if circumstances have been determined that do not allow for criminal proceedings;

2) a decision regarding the sending of the case to a public prosecutor for the elimination of violations;

3) a judgment of conviction.

(2) Court adjudications shall be appealed only in accordance with cassation procedures.

Section 543. Court Judgments in Agreement Proceedings

(1) If a court does not have any doubts regarding the guilt of an accused, such court shall render a judgment of conviction.

(2) A court shall outline the essence of an entered into agreement, which a public prosecutor, accused, and his or her defence counsel have confirmed in a court session, in the reasoned part of a judgment, and shall evaluate the validity of the entered into agreement.

(3) The operative part of a judgment shall indicate a court decision regarding:

1) the fact that an accused (referring to his or her given name and surname) has been found guilty of a criminal offence (referring to the section, paragraph, and clause of the Criminal Law in which the relevant criminal offence has been provided for);

2) the fact that the court approves the entered into agreement and imposed the type and amount of penalty provided for in such agreement;

3) the releasing of an accused from detention, house arrest, or a social correctional educational institution in a courtroom, if a penalty not related to deprivation of liberty has been specified for him or her.

4) the deduction of the term of a security measure related to deprivation of liberty imposed on an accused in the term of a penalty;

5) the term of an examination in the case of a suspended sentence;

6) the security measure;

7) compensation for injury;

8) ensuring of compensation for injury or a confiscation of property, if such ensuring has not been previously performed;

9) actions with material evidence and documents;

10) consideration for procedural expenditures;

11) recovery of the work remuneration of an advocate from an accused or regarding the releasing of him or her from payment;

12) fee for the victim compensation fund;

13) the opportunity to appeal the judgment in accordance with cassation procedures, and the term thereof.

Chapter 50
Special Features of Court Proceedings in Entering Into an Agreement in Trial Proceedings

Section 544. Right to Enter Into an Agreement in Trial Proceedings

(1) A public prosecutor and an accused have the right to mutually agree, up to the commencement of a court investigation, regarding the completion of criminal proceedings by entering into an agreement regarding the admission of guilt and a penalty.

(2) The entering into of an agreement in trial proceedings shall be allowed, if:

1) an accused has been incriminated in the committing of a criminal violation, a less serious crime, or a serious crime;

2) the accused agrees to the size and legal qualification of the incriminating criminal offence;

3) the accused admits his or her guilt completely in the committing of the criminal offence for which he or she has been incriminated.

Section 545. Actions of a Court after the Receipt of an Application

In receiving the oral or written application of a public prosecutor or accused, or his or her defence counsel or representative, regarding the desire to enter into an agreement, a court shall do the following:

1) examine the admissibility of the agreement in the concrete proceedings;

2) explain to the accused the consequences of the agreement;

3) ascertain whether the public prosecutor or accused, or his or her representative, accordingly, agrees to the entering into of the agreement;

4) ascertain the views of the victim or his or her representative regarding the application of the agreement;

5) determine a break in the court session for the co-ordination of the agreement and the submission thereof to the court.

Section 546. Trial of a Criminal case in Agreement Proceedings

(1) If an agreement has been entered into, a court shall continue, after the session break, the adjudication of the case with the same composition and in accordance with the procedures specified in Chapter 49 of this Law.

(2) If a public prosecutor and accused notify, after the break in the court session, that an agreement has not been entered into, the court shall continue the adjudication of the case in accordance with general procedures.

Chapter 51
Special Features of Court Proceedings in Proceedings regarding the Application of Coercive measures on Legal Persons

Section 547. Deciding of a Criminal Case in Court

In adjudicating a criminal case in which the application of coercive measures on a legal person has been proposed, a court shall decide the following matters:

1) whether a criminal offence has occurred;

2) whether a natural person committed such offence in the interests of a legal person;

3) whether a legal person, that is, one of the heads or owners of the legal person, had knowledge regarding such criminal offence;

4) whether the conditions referred to in Section 440 of this Law have been ascertained;

the coercive measure that is to be applied.

Section 548. Court Adjudications

(1) Having recognised that the criminal offence of a natural person was committed in the interests of a legal person, and, in addition, that the legal person had knowledge regarding such offence and did not do anything in order to prevent the criminal offence or the consequences thereof, a court shall also decide in a judgment regarding the application of coercive measure to the legal person.

(2) Having recognised that the facts referred to in Paragraph one of this Section have not been proven, a court shall dismiss criminal proceedings in the part regarding the application of coercive measures to a legal person.

Division 10
Adjudication of a Case in a Court of Appeals and a Court of cassation

Chapter 52
Preparation of a Case for Adjudication in a Court of Appeals

Section 549. Appeal in Accordance with Appellate Procedures

Appeal in accordance with appellate procedures is the submission of a written appellate protest or complaint regarding a court adjudication that has not entered into effect of a court of first instance for the purpose of achieving the revocation thereof completely or in a part thereof both due to actual and legal reasons.

Section 550. Terms for the Submission of an Appellate Complaint and Protest

(1) An appellate complaint or protest shall be submitted not later than within a term of 10 days after the day when a full court adjudication became available.

(2) After a specific term, a judge may refuse to accept a submitted appellate complaint or protest with a decision that may be written in the manner of a resolution, if the submitter has not requested the renewal of the term. The court shall notify the submitter regarding the taken decision, and the submitted complaint or protest shall be attached to the case.

(3) A decision of a judge with which the acceptance of an appellate complaint or protest has been refused may be appealed within a term of 10 days in a court of appeals, whose decision is final.

Section 551. Content of an Appellate Complaint and Protest

(1) The following shall be indicated in an appellate complaint or protest:

1) the court adjudication regarding which the complaint or protest is being submitted;

2) the amount in which the adjudication is being appealed or protested;

3) the way in which the error in the adjudication has been expressed;

4) evidence that must be examined in a court of appeals;

5) whether new evidence is being submitted, what new evidence is being submitted, regarding which circumstances, and why such evidence was not submitted or examined in a court of first instance;

6) the request of the submitter;

7) a list of the documents attached to the complaint or protest.

(2) An appellate complaint or protest shall be signed by the submitter thereof.

(3) An appellate complaint or protest shall indicate the given name, surname, and address of the person the examination of whom in a court of appeals the submitter of the complaint or protest requests, as well as whether a defence counsel will be necessary in the court of appeals, and whether or not the court must arrange for such defence counsel.

(4) A victim and his or her representatives may not request more in an appellate complaint than what he or she had requested in adjudication in a court of first instance.

(5) A public prosecutor has a duty to submit a protest regarding an unlawful or unjustified court adjudication. However, a public prosecutor who has participated in a court of first instance is entitled to submit a protest only regarding judgments in which the court has not taken into account his or her views in the adjudication of the case, or also has allowed violations that he or she was unable to prevent in the course of the adjudication of the case. Such restrictions do not apply to higher-ranking public prosecutors.

Section 552. Procedures for the Submission of an Appellate Complaint and Protest

(1) An appellate complaint or protest shall be addressed to a court that is one level higher – a court of appeals.

(2) An appellate complaint or protest shall be submitted to the court that rendered the adjudication.

Section 553. Leaving an Appellate Complaint and Protest Without Advancement

(1) If an appellate complaint or protest does not comply with the requirements of Section 551 of this Law, a judge shall take a decision regarding the leaving of an appellate complaint or protest without advancement, indicating the deficiencies of the complaint or protest, and shall determine a term of 10 days for the submitter to eliminate the deficiencies.

(2) If a submitter does not eliminate deficiencies within the specified term, a judge shall take a decision regarding the leaving of the appellate complaint or protest without adjudication.

Section 554. Consequences of the Submission of an Appellate Complaint and Protest

(1) The submission of an appellate complaint or protest shall suspend the entering into effect of a judgment in relation to all the accused in such case.

(2) The submission of an appellate complaint or protest regarding a court judgment of acquittal shall not suspend the entering into effect of a judgment in the part regarding the releasing of an accused from detention, house arrest, or a social correctional educational institution.

(3) An appellate complaint or protest submitted only in connection with the deciding in a case of the compensation for harm caused shall not suspend the execution of a judgment in the part regarding the criminal liability of an accused.

Section 555. Additions, Objections, and Explanations of an Appellate Complaint or Protest

(1) After the end of the term for the submission of an appellate complaint or protest, the court that rendered the judgment shall send the case to a court of appeals, and shall send a copy of the submitted appellate complaint or protest to the persons whose interests and rights have been infringed upon by the appellate complaint or protest, and shall also inform such persons regarding the sending of the case to the court of appeals.

(2) Persons whose interests and rights have been infringed upon by an appellate complaint or protest have the right to acquaint themselves, up until the day when the case will be adjudicated in a court of appeals, with the case in the premises of the court, make extracts, prepare copies of case materials, submit their written objections against an appellate complaint or protest and explanations regarding such objections. Objections to an appellate complaint or protests and explanations regarding such objects shall be attached to the case.

(3) Persons who have submitted an appellate complaint or protest are entitled to submit additions to the complaint or protest to a court of appeals not later than within a term of 10 days after the end of the appeal term, yet such persons shall not be permitted to modify the essence of the initial request.

Section 556. Withdrawal of Appellate Complaints or Protests

(1) A person who has submitted an appellate complaint or protest is entitled to withdraw his or her complaint or protest up to the moment when a court of appeals retires to deliberate for the rendering of an adjudication.

(2) Without restrictions the following may be withdrawn:

1) the submitter of a complaint - his or her appellate complaint;

2) an accused of legal age - an appellate complaint of his or her defence counsel and his or her former representative;

3) a victim of legal age - an appellate complaint of his or her representative and his or her former lawful representative;

4) a public prosecutor - his or her appellate protest, and a higher-ranking public prosecutor - an appellate protest of a lower-ranking public prosecutor.

(3) The following persons may withdraw the following complaints only with the written consent of an accused:

1) his or her defence counsel - his or her appellate complaint;

2) his or her representative or former representative - his or her appellate complaint.

(4) The representative of a victim may withdraw his or her appellate complaint only with the consent of such victim.

(5) The withdrawal of an appellate complaint shall not be binding on a court, if:

1) the appellate complaint has been withdrawn by a minor or a person for whom protection is to be compulsorily ensured due to his or her natural person or mental deficiencies, or the defence counsel or representative of such minor or person;

2) a court of appeals determines a clear violation of the Criminal Law or this Law on account of which the appealed adjudication is to be revoked or modified in order to reduce the size of the prosecution, reduce the penalty, or terminate the case.

(6) After the receipt of the withdrawal of an appellate complaint or protest, a court may take a decision regarding the termination of appellate court proceedings.

(7) If the withdrawal of an appellate complaint or protest complies with the requirement of this Law, and has been submitted up to the sending of the case to a court of appeals, a court of first instance shall not send the case to the court of appeals, but shall attach the withdrawal to the case. If the withdrawal has been submitted in a court of appeals, the judge of the court of appeals or the court shall take a decision regarding the termination of the appellate court proceedings. The court shall notify regarding the taken decision the persons who submitted the appellate complaint or protest.

Section 557. Adjudication of an Appellate Complaint of the Representative of a Minor Person

(1) An appellate complaint of the representative of an accused, or victim, who is a minor shall be adjudicated, if such complaint has not been withdrawn, also if the person being defended has reached legal age at the moment of the adjudication of the case.

(2) If such complaint of the former representative of an accused or minor has been submitted after the reaching of legal age of the minor, such complaint shall be left without adjudication.

Section 558. Circumstances that shall be Ascertained Before the Acceptance of a Case for Adjudication

(1) In deciding a matter regarding the acceptance of a case for adjudication, a judge shall ascertain whether circumstances exist that prohibit the possibility to adjudicate a case in accordance with appellate procedures.

(2) If, in receiving a case in a court of first instance, a judge determines that a court of first instance has not fulfilled the requirements provided for in Sections 550 and 55 of this Law, he or she shall take a decision regarding the returning of the case to the court of first instance for the elimination of deficiencies, and shall notify, in writing, those persons

whose interest and rights have been infringed upon by the submitted appellate complaint or protest regarding such returning.

Section 559. Acceptance of a Case for Adjudication

(1) If circumstances do not exist that prohibit the adjudication of a case in accordance with appellate procedures, a judge shall take a decision regarding the adjudication thereof.

(2) A decision shall indicate:

1) the place and time of the adjudication of the case;

2) the persons that are to be summoned to the court session;

3) how the submitted requests have been decided, and the additional materials that are required in connection with the submitted requests.

(3) Persons whose interests and rights are infringed upon by a submitted appellate complaint or protest, and a court of first instance, shall be notified regarding the time and place of the adjudication of a case.

Chapter 53
Adjudication of a Case in Accordance with Appellate Procedures

Section 560. Persons who Participate in the Adjudication of a Case in a Session of a Court of Appeals

(1) A public prosecutor (except for private prosecution cases), the persons who have appealed a court judgment, the persons in relation to whom a court judgment has been appealed or protested, and the defence counsel and representatives thereof shall be summoned to a session of a court of appeals.

(2) Other persons may be invited to a court session if such request has been expressed in an appellate complaint or protest, and if such persons have not been examined in the adjudication of the case in a court of first instance. A court may summon, on the basis of the initiative thereof, persons who have been examined in a court of first instance, if the court has justified doubts regarding the completeness of the provided testimony or regarding the possible guilt of the accused in the incriminating prosecution.

(3) If a person who has submitted an appellate complaint or protest does not arrive at a court session without a justifiable reason, the complaint or protest of such person shall be left without adjudication.

(4) If an accused who, in the appellate complaint thereof, has disputed his or her guilt in the committing of a criminal offence or the actual circumstances of an offence has died, his or her complaint shall be adjudicated.

Section 561. Adjudication of a Case in a Session of a Court of Appeals

(1) A case shall be adjudicated in a court of first instance by a panel of three judges, of whom one is the chairperson of the court session. A case shall be adjudicated in

accordance with the procedures specified for the adjudication of a criminal case in a court of first instance, except for that which is specified in this Chapter.

(2) A court investigation shall commence with a report of a judge regarding the essence of a judgment of a court of first instance, and regarding the requests expressed in an appellate complaint or protest. After report, the judge shall ask the person who submitted the appellate complaint or protest whether such person maintains his or her complaint or protest and in what amount.

[28 September 2005]

Section 562. Amount and Framework within which a Case shall be Adjudicated in a Court of Appeals

(1) A court investigation, and court discussions, in a court of appeals shall take place in the amount of, and within the framework of, the requirements expressed in a complaint or protest, which shall not be exceeded, except for cases where a court of appeals has doubts regarding the guilt of, or the circumstances aggravating the liability of, an accused, participants, or joint participants that has been determined by a court of first instance.

(2) A court of appeals shall apply a law regarding a criminal offence more serious than as recognised by a court of first instance only if so requested by a public prosecutor in his or her protest, or by a victim in his or her complaint in a private prosecution case, or by a victim in his or her complaint in a public prosecution case who is supported by a public prosecutor. In such case, a law regarding an offence more serious than the offence regarding which the person has been accused in sending a criminal case to court shall not be applied, except for the case where a public prosecutor modified the prosecution in a session of a court of first instance to a more serious prosecution.

(3) The determination of a more serious penalty for an accused shall be allowed if the protest of a public prosecutor or the complaint of a victim has been submitted for such reason.

(4) The finding of an acquitted person guilty, and the application of a penalty to such person, shall be allowed only in cases where a protest of a public prosecutor, or a complaint of a victim, has been submitted for such reason in a private prosecution case, or a complaint of a victim supported by a public prosecutor has been submitted in a public prosecution case for such reason.

Section 563. Adjudications of a Court of Appeals

(1) As a result of the adjudication of a case, a court of appeals shall take one of the following adjudications:

1) to leave the judgment of the court of first instance unmodified;

2)to revoke the judgment of the court of first instance and render a new judgment;

3) to revoke the judgment of the court of first instance in a part thereof and render a new judgment in such part;

4) to revoke the judgment of the court of first instance and dismiss criminal proceedings in the cases provided for in this Law;

5) to revoke the judgment of the court of first instance completely or in a part thereof, and send the criminal case to the court of first instance for new adjudication.

(2) A court of appeals shall take a decision in the cases provided for in Paragraph one, Clauses 1, 4, and 5 of this Section.

Section 564. Content of an Adjudication of a Court of Appeals

(1) An adjudication of a court of appeals shall consist of an introductory part, a descriptive part, a reasoned part and an operative part.

(2) The introductory part of an adjudication shall indicate the time and place of the acceptance thereof, the name and composition of the court, the public prosecutor, the person who submitted the appellate complaint or protest, and the judgment that was appealed or protested.

(3) The descriptive part of an adjudication shall indicate the essence of the appealed or protested judgment, and the requests expressed in the appellate complaint or protest.

(4) The reasoned part of an adjudication shall indicate the findings of the court of appeals regarding the validity of the appellate complaint or protest, the circumstances ascertained by the court of appeals, the evidence that confirms the findings of the court of appeals, the motives why the court of appeals rejects some pieces of evidence, and the laws on the basis of which such court conducts itself.

(5) If a court of appeals determines circumstances of a criminal offence that differ from the circumstances indicated in the judgment of the court of first instance, such court shall provide a new description of the criminal offence.

(6) If a court of appeals leaves the judgment of a court of first instance without modifications, such court may not repeat the evidence and findings referred to in the judgment of the court of first instance.

(7) The operative part of an adjudication shall indicate one of the adjudications provided for in Section 563 of this Law.

(8) If a court of appeals renders a judgment that is essentially new, the descriptive part, reasoned part, and operative part thereof shall comply with the requirements specified in this Law for a judgment of a court of first instance.

Section 565. Competence of a Court of Appeals in the Rendering of a New Judgment

(1) A court of appeals may do the following as a result of the adjudication of an appellate complaint or protest:

1) acquit an accused regarding all criminal offences, or a part of such offences, regarding which a court of first instance rendered a judgment of conviction, determining a lighter penalty or without changing the specific penalty;

2) find an accused guilty regarding the committing of a criminal offence that is less serious than that recognised by a court of first instance, determining a lighter penalty or without changing a specific penalty;

3) exclude from prosecution separate episodes of the criminal offence, determining a lighter penalty or without changing the specific penalty;

4) revoke the judgment of a court of first instance in the part regarding the specific penalty, and determine a lighter penalty for the accused;

5) revoke the judgment of a court of first instance in the part regarding compensation for harm, the ensuring of compensation for harm or the ensuring of confiscation of property, material evidence, consideration of procedural expenses, and a security measure, and to render a new judgment in such part.

(2) Having determined the incorrect application of the Criminal Law, a court of appeals shall also apply the requirement of Paragraph one of this Section to the other accused who have been convicted regarding the same criminal offence, regardless of whether an appellate complaint or protest has been submitted regarding such conviction.

(3) Based on the protest of a public prosecutor, or the complaint of a victim, in a private prosecution case, or the complaint of a victim in a public prosecution case supported by a public prosecutor, a court of appeals may:

1) find an accused guilty regarding the committing of a criminal offence that is more serious than recognised by a court of first instance, determining a heavier penalty or without changing the penalty;

2) revoke the judgment of acquittal of the court of first instance, and render a judgment of conviction;

3) find an accused guilty regarding the committing of separate episodes of a criminal offence, which a court of first instance excluded from prosecution, determining a heavier penalty or without changing the penalty;

4) revoke the judgment of a court of first instance in the part regarding a penalty, determining a heavier penalty.

(4) Based on a complaint of a victim in a public prosecution case, a court of appeals may revoke the judgment of a court of first instance in the part regarding a penalty, determining a heavier penalty.

Section 566. Competence of a Court of Appeals in the Sending of a Criminal case to a Court of First Instance for a New Adjudication

If, in the adjudication of a case, a court of appeals determines violations of this Law that bring about the revocation of the judgment, such court shall take a decision regarding the revocation of the judgment of a court of first instance completely or in a part thereof, and regarding the sending of the case to a court of first instance for new adjudication in a different composition of the court.

Section 567. Termination of Appellate Court Proceedings

If, in the adjudication of a case, a court of appeals determines violations of the requirements of Section 550 of this Law, such court shall take a decision regarding the termination of the appellate court proceedings.

Section 568. Pronouncement of an Adjudication of a Court of Appeals

(1) A court of appeals shall pronounce the introductory part and operative part of an adjudication.

(2) A court shall determine the time when a full court adjudication will be available.

Chapter 54
Adjudication of a Case in Accordance with Cassation Procedures

Section 569. Appeal in Accordance with Cassation Procedures

(1) An appeal in accordance with cassation procedures is the submission of a written cassation protest or complaint to the Senate of the Supreme Court regarding the legality of an adjudication of a court of appeals that has not yet entered into effect, for the purpose of achieving the revocation thereof completely or in a part thereof, or the modification thereof due to legal reasons.

(2) An adjudication of a court of first instance that was rendered during agreement proceedings and has not yet entered into effect may be appealed in accordance with the procedures, and for the purpose, specified in Paragraph one of this Section.

(3) A court of cassation shall not evaluate evidence in a case *de novo*.

Section 570. Terms for the Submission of an Cassation Complaint and Protest

(1) A cassation complaint or protest shall be submitted not later than within a term of 10 days after the day when a court judgment or decision became available.

(2) After a specific term, a judge may refuse to accept a submitted cassation complaint or protest with a decision that shall be written in the manner of a resolution, if the submitter has not requested the renewal of the term. The court shall notify the submitter regarding the taken decision, and the submitted complaint or protest shall be attached to the case.

(3) A decision of a judge with which the acceptance of an cassation complaint or protest has been refused may be appealed within a term of 10 days in the Senate of the Supreme Court, whose decision is final.

(4) A complaint or protest submitted in accordance with the procedures specified in Paragraph one of this Section shall suspend the execution of a judgment or the entering into effect of a decision.

Section 571. Persons who have the Right to Submit a Cassation Complaint or Protest

(1) An accused, his or her defence counsel, a victim, and his or her representative and lawful representative may submit a cassation complaint.

(2) An accused may submit a complaint regarding an infringement of his or her rights, and a victim may submit a complaint in the part that infringes upon his or her rights and interests.

(3) A public prosecutor may submit a cassation protest.

Section 572. Content of an Cassation Complaint and Protest

A cassation complaint or protest shall include a justification of the requirements expressed therein with a reference to the violation of the Criminal Law or of the norms of this Law, as well as a reasoned request regarding the adjudication of a case in oral proceedings in a court session, if the submitter of the complaint or protest so wishes.

Section 573. Reasons for the Examination of an Adjudication in Accordance with Cassation Procedures

The legality of an adjudication shall be examined in accordance with cassation procedures only in the case where the action expressed in the cassation complaint or protest has been justified with a violation of the Criminal Law or a substantial violation of this Law.

Section 574. Violations of the Criminal Law

A violation of the Criminal Law is:

1) an incorrect application of sections of the General Part of the Criminal Law;

2) the incorrect application of a section, paragraph, or clause of the Criminal Law in qualifying a criminal offence;

3) the determination for an accused of a type or amount of penalty that has not been provided for in the sanction of the relevant section, paragraph, or clause of the Criminal Law.

Section 575. Substantial Violations of the Criminal Procedure Law

(1) The following are substantial violations of the Criminal Procedure Law that bring about the revocation of a court adjudication:

1) a court has adjudicated a case in an unlawful composition;

2) circumstances have not been complied with that exclude the participation of a judge in the adjudication of a criminal case;

3) a case has been adjudicated in the absence of the accused or persons involved in the proceedings, if the participation of the accused and such persons is mandatory in accordance with this Law;

4) the right of the accused to use a language that he or she understands, and to utilise the assistance of an interpreter, has been violated;

5) the accused was not given the opportunity to make a defence speech or was not given the opportunity to say the last word;

6) a case does not have the minutes of a court session, if such minutes are mandatory;

7) in rendering a judgment, a secret of court deliberations has been violated.

(2) The expulsion of an accused or victim from a courtroom may be recognised as a substantial violation of this Law, if the expulsion was unjustified, and such expulsion has substantially restricted the procedural rights of such persons, and, therefore, led to the unlawful adjudication.

(3) Other violations of this Law that led to an unlawful adjudication may also be recognised as substantial violations of this Law.

[19 January 2006]

Section 576. Procedures for the Submission of a Cassation Complaint and Protest

A cassation complaint or protest shall be submitted to the court that rendered the adjudication.

Section 577. Consequences of the Submission of a Cassation Complaint and Protest

(1) The submission of an appellate complaint or protest shall suspend the entering into effect of an adjudication in relation to all the accused in such case.

(2) The submission of a cassation complaint or protest regarding a court judgment of acquittal shall not suspend the entering into effect of a judgment in the part regarding the revocation of a security measure – detention, house arrest, or placement in a social correctional educational institution.

(3) With the termination of the term for the appeal of an adjudication, the court that rendered the adjudication shall send the case together with the cassation complaint or protest to the Senate of the Supreme Court.

Section 578. Report regarding the Submission of a Cassation Complaint or Protest

(1) The court that rendered the adjudication shall notify the public prosecutor regarding the submitted cassation complaint and protest, as well as notify the persons whose interests and rights are infringed upon by such complaint or protest, and simultaneously send a copy of the submitted complaint or protest to the public prosecutor and such persons.

(2) The persons referred to in Paragraph one of this Section may submit written objections or explanations within a term of 10 days after the receipt of a copy of a complaint or protest, and such objects or explanations shall be sent to the Senate of the Supreme Court.

Section 579. Supplementation or Modification of a Cassation Complaint or Protest

(1) The submitter of a cassation complaint may submit supplements and modifications to the complaint. The submitter of a cassation protest or a higher ranking public prosecutor may submit supplements and modifications to the protest.

(2) Modifications or supplements to a protest, or to the complaint of a victim, that has been submitted in accordance with cassation procedures after the end of the term for appeal shall not put forth an action regarding the deterioration of the condition of the accused, if such action is not in the initial protest or complaint.

(3) Supplements and modifications shall not be submitted later than within a term of 10 days after the end of the term for appeal. The Senate of the Supreme Court shall immediately send copies thereof to the other persons referred to in Paragraph one of Section 578 of this Law.

Section 580. Withdrawal of Cassation Complaints or Protests

A cassation complaint or protest may be withdrawn in accordance with the procedures specified in Section 556 of this Law.

Section 581. Adjudication of a Cassation Complaint of the Representative of a Minor Person

(1) A cassation complaint of the representative of an accused, or victim, who is a minor shall also be adjudicated if the defendant has reached legal age at the moment of the adjudication of the case.

(2) If such complaint of the former representative of an accused or minor has been submitted after the reaching of legal age of the minor, such complaint shall be left without adjudication.

Section 582. Composition of a Cassation Court

(1) A panel of three judges of the Senate of the Supreme Court, of whom one is the chairperson of the session, shall examine judgments and decisions in accordance with cassation procedures.

Section 583. Determination of the Adjudication of a Case

(1) The judge who has been assigned to make an account (hereinafter also - rapporteur) shall familiarise him or herself with a case and, with a resolution to the cassation complaint or protest, determine the adjudication of the case in written proceedings or adjudication in a court session.

(2) The adjudication of a case in written proceedings shall be determined, if the taking of a decision is possible on the basis of the materials in the case. If additional explanations are necessary from persons who have the right to participate in proceedings, or if, on the basis of the discretion of the Senate of the Supreme Court, the relevant case may have special significance in the interpretation of the norms of the law, the adjudication of the case in a court session shall be determined.

(3) Persons who have submitted a complaint or protest, as well as persons whose interests are infringed upon by the complaint or protest shall be notified whether a case will be adjudicated in written proceedings or a court session, indicating where and when such case will be adjudicated.

(4) If the adjudication of a case has been specified in written proceedings, the persons referred to in Paragraph three of this Section shall be notified regarding the composition of the court, and the right to submit a recusal within a term of seven days shall be explained to such persons.

(5) In adjudicating a case in a court session, an accused who is located in detention shall be ensured the opportunity to participate in the adjudication of the case, if he or she has requested such participation in the term indicated in Paragraph two of Section 578 of this Law.

Section 584. Boundaries of the Adjudication of a Case in a Court of Cassation

(1) An examination of the lawfulness of the adjudication of a court shall take place in the amount of, and within the framework of, the requirements expressed in a cassation complaint or protest.

(2) A court of cassation shall be permitted to exceed the amount and framework of requirements expressed in a cassation complaint or protest in the cases where such court determines the violations indicated in Section 574 and 575 of this Law, and such violations have not been indicated in the complaint or protest.

Section 585. Adjudication of a Case in Written Proceedings

(1) A case shall be adjudicated in written proceedings on the basis of the materials in the case, in compliance with the competence of the court of cassation.

(2) If necessary, a court shall request the submission of the views of the public prosecutor.

(3) A rapporteur shall notify regarding the circumstances of the case.

(4) A cassation complaint or protests shall be decided by taking a decision.

(5) A decision regarding the transferring of a case for adjudication in a court session may also be taken in written proceedings.

(6) A copy of a decision taken regarding a cassation complaint or protests shall be sent to the submitter of the complaint and to a public prosecutor. The other persons referred to in Paragraph three of Section 583 of this Law shall be notified regarding the result of the adjudication.

Section 586. Adjudication of a Case in Oral Proceedings in a Session of a Court of Cassation

(1) The chairperson of a court session shall open the session, announce which case is to be adjudicated, ascertain who has arrived for the court session, and decide the matter regarding the possibility of adjudicating the case. The non-arrival of an accused or his or her defence counsel, or a victim or his or her representative, if he or she has been notified regarding the time and place of the session of the court of cassation, shall not be an impediment to the adjudication of a case.

(2) The chairperson of a session shall announce the composition of the court, the surname of the interpreter, public prosecutor, and advocate, and ascertain whether there are recusals. If there are such recusals, a court shall take a decision regarding such recusals..

(3) The adjudication of a case shall commence with an account of the rapporteur in which he or she shall outline the circumstances of the case that relate to the object of the complaint or protest, the essence of the adjudication regarding which the cassation complaint or protest has been submitted, and the reasons due to which the action has been submitted to revoke or modify the adjudication.

(4) After the account of the rapporteur, the chairperson shall summon the submitter of the complaint, or his or her defence counsel or representative, to provide explanations for the justification of the complaint. If the case is adjudicated in connection with a protest, the public prosecutor shall be given the first word for the justification of the protest.

(5) In cases where the submitter of a complaint, or his defence counsel or representative, has not arrived, the rapporteur shall notify regarding the justification for the complaint.

(6) Afterward, the court may hear other persons who have been notified regarding the court session and whose rights and interests are infringed upon by the cassation complaint or protest.

(7) After the hearing of explanations, the public prosecutor shall express his or her view regarding such explanations. Then the court shall once again hear the accused or his or her defence counsel, and take a decision in the deliberation room.

Section 587. Court Decisions of a Court of Cassation

A court of cassation shall take one of the following decisions:

1) to leave an adjudication unmodified, and reject a cassation complaint or protest;

2) to revoke an adjudication completely or in a part thereof, and send a case for a new trial;

3) to revoke an adjudication completely or in a part thereof, and dismiss criminal proceedings;

4) to modify an adjudication;

5) to terminate cassation court proceedings.

Section 588. Content of a Decision of a Court of Cassation

(1) The following shall be indicated in a decision of a court of cassation:

1) the time and place of the taking of the decision;

2) the name and composition of the court, and the public prosecutor and other persons who participated in the adjudication of the case;

3) the person who submitted the cassation complaint or protest;

4) the contents of the operative part of the appealed adjudication;

5) the essence of the action expressed in the cassation complaint or protest, the justification for such action, and the essence of the objections and the views of the public prosecutor;

6) the decision of the cassation court regarding the complaint or protest.

(2) A decision shall be reasoned. If a cassation complaint or protest is rejected, the decision shall indicate why the arguments expressed in the cassation or protest have been recognised as unjustified.

(3) In the case of the revocation of an adjudication, a court of cassation shall indicate the law, and the section thereof, that has been violated, and how such violation was made manifest.

(4) If a case has been adjudicated in oral proceedings in a court session, the entire composition of the court shall sign the operative part of a decision in the deliberation room. The chairperson, or a judge of the court panel, shall immediately pronounce such decision in the courtroom.

(5) A decision of a court of cassation shall not be subject to appeal. Such decision shall enter into effect at the moment of the pronouncement thereof.

Section 589. Compulsory Nature of an Instruction of a Court of Cassation

(1) The translation of a law expressed in a decision of a court of cassation shall be compulsory for the court that adjudicates such case *de novo*.

(2) A court of cassation shall not indicate in a decision thereof what adjudication must be taken in adjudicating a case *de novo*.

Section 590. Transfer for Execution of a Decision of a Court of Cassation

(1) A reasoned decision of a court of cassation shall be signed by the entire composition of the court not later than within a term of five working days after the acceptance thereof, and sent, together with the case, to the following:

1) a court of first instance, if the decision referred to in Section 587, Clauses 1, 3, 4, and 5 of this Law has been taken;

2) the court whose adjudication has been revoked, if a court of cassation has taken a decision regarding the sending of a case for a new trial.

(2) A decision on the basis of which a security measure related to deprivation of liberty has been revoked shall be executed immediately. In such case, a court of cassation shall send an extract of the decision for execution.

Section 591. Adjudication of a Case after the Revocation of a Judgment or Decision

(1) A case in which a taken adjudication has been revoked shall be sent for new adjudication to the court that took such decision. Such case shall be adjudicated in accordance with general procedures, but in a different composition of court.

(2) The intensification of a penalty, or the application of a law, regarding a more serious criminal offence in adjudicating a case *de novo* shall be allowed only if a judgment has been revoked due to the lightness of a penalty or in connection with the fact that, on the basis of the protest of a public prosecutor or the complaint of a victim, the application of a law regarding a more serious criminal offence was necessary.

(3) An adjudication rendered in examining a case *de novo* may be appealed, and a protest regarding such adjudication may be submitted, in accordance with general procedures.

Division Eleven
Special Features of Criminal Proceedings in Cases of Separate Categories

Chapter 55
Criminal Proceedings in Determining Compulsory Measures of a Medical Nature

Section 592. Grounds for Determining Compulsory Measures of a Medical Nature

(1) A court shall determine a compulsory measure of a medical nature provided for in Section 68 of the Criminal Law for a person who has committed a criminal offence while in a state of mental incapacity, or who, after the committing of a criminal offence or the rendering of a judgment, has fallen ill with mental disturbances that have taken away his or her capacity to understand his or her actions or to control such actions, if such person, on the basis of the nature of the committed offence and his or her mental condition, is dangerous to society.

(2) If the person referred to in Paragraph one of this Section, on the basis of the nature of a committed offence and his or her mental conditions, is not dangerous to society, but has fallen ill with mental disturbances, a person directing the proceedings may dismiss criminal proceedings by placing the relevant person under the care of close relatives, other persons who perform nursing of patients, or under the supervision of a medical treatment institution on the basis of the place of residence of such person.

Section 593. Procedures for Pre-trial Proceedings

(1) Pre-trial proceedings are mandatory regarding a criminal offence committed by a person while in a state of mental incapacity, or regarding a criminal offence committed by a person for whom mental disturbances have arisen following the committing of such offence, and such pre-trial proceedings shall take place in compliance with the general procedures specified in this Law, as well as the provisions of this Chapter.

(2) If, during the course of criminal proceedings commenced in accordance with general proceedings, the grounds referred to in Section 592 of this Law have been ascertained, or the findings of a court psychiatric expert-examination have been received regarding the existence of such grounds, a person directing the proceedings shall take a reasoned decision within a term of 10 days regarding the continuation of proceedings for the determination of compulsory measures of a medical nature, and revoke a decision regarding the holding of a person criminally liable. If necessary, the materials of a criminal case regarding the concrete person shall be distributed in separate records.

Section 594. Participation of a Person in the Conducting of Investigative actions in Pre-trial Proceedings

(1) In initiating proceedings for the determination of compulsory measures of a medical nature, a person directing the proceedings shall notify the relevant legal person, or the representative thereof, regarding such initiation by sending a copy of the decision, and shall inform such persons and the representative thereof regarding the rights and duties thereof.

(2) If proceedings have been initiated against a person for the determination of compulsory measures of a medical nature, and, in accordance with the findings of an expert-examination, the person may not participate in the conducting of investigative actions in pre-trial proceedings, a person directing the proceedings shall inform the defence counsel of such person regarding such non-participation, and shall take a decision regarding the participation of a representative in criminal proceedings.

Section 595. Circumstances to be Ascertained in Pre-trial Proceedings

(1) The following shall be ascertained in pre-trial proceedings for the determination of compulsory measures of a medical nature:

1) the circumstances of the committing of a criminal offence;

2) whether the criminal offence was committed by the person to be examined;

3) whether the person was ill during the committing of the criminal offence with mental disturbances due to which he or she was unable to understand his or her actions or control such actions, or fell ill with such mental disturbances following the committing of the criminal offence;

4) circumstances that do not allow for the application of a penalty, if the person has fallen ill with mental disturbances following the committing of a criminal offence;

5) data characterising the persons to be examined;

6) the nature and amount of the injury caused as a result of the criminal offence.

(2) A court may determine compulsory measures of a medical nature if the circumstances indicated in Paragraph one of this Section have been determined.

Section 596. Court Psychiatric Expert-examinations

(1) A person directing the proceedings shall determine a court psychiatric expert-examination for a suspect or accused, if information has been acquired in criminal proceedings regarding the fact that a person ill with mental disturbances committed a criminal offence while in a state of mental incapacity, or has fallen ill following the committing of the criminal offence, or also information regarding the fact that such person committed the criminal offence while in a state of diminished mental capacity.

(2) In determining a court psychiatric expert-examination, the ascertaining of the circumstances indicated in Section 595, Paragraph one, Clauses 3, 4, and 5 of this Law, and the posing of concrete questions to the expert, shall be necessary.

(3) A court psychiatric expert-examination is mandatory in proceedings for the determination of compulsory measures of a medical nature.

Section 597. Suspension of Pre-trial Procedures in relation to the Placement of a Person in a Medical Treatment Institution

(1) If a person who has fallen ill with mental disturbances following the committing of a criminal offence may not participate in pre-trial proceedings on the basis of the findings of an expert, and medical treatment is necessary for such person, a person directing the proceedings shall submit to the court a proposal regarding the placement of such person in a medical treatment institution. The court shall take a decision regarding the placement of the referred to person in a medical treatment institution, or reject the proposal. Having received such decision of the court, a person directing the proceedings shall suspend pre-trial proceedings.

(2) Having received findings from a medical treatment institution that a person has been treated and that the continuation of an investigation is possible, a person directing the proceedings shall renew and continue pre-trial proceedings.

(3) If, in accordance with the findings of an expert, a person is incurable and the determination of one of the compulsory measures of a medical nature provided for in the Criminal Law is necessary for him or her, a person directing the proceedings shall complete the proceedings for the determination of compulsory measures of a medical nature.

Section 598. Participation of a Defence Counsel and Representative in Proceedings

(1) The participation of a defence counsel is mandatory in proceedings for the determination of compulsory measures of a medical nature.

(2) The participation of the representative of a person is mandatory in proceedings for the determination of compulsory measures of a medical nature, if the person may not participate in the proceedings him or herself.

(3) A defence counsel and representative shall participate in proceedings from the moment when the falling ill of the person with mental deficiencies is determined, if such defence counsel and representative have not previously participated in proceedings due to other reasons.

(4) If, during criminal proceedings, a person is treated and found to have full mental capacity, a court shall decide regarding the further participation of the representative in proceedings, but the defence counsel shall continue to participate in proceedings.

Section 599. Revocation of a Detention Order

(1) In initiating proceedings for the determination of compulsory measures of a medical nature, the security measure selected for a person shall be revoked.

(2) If a person is dangerous to society in connection with falling ill, the investigating judge in pre-trial proceedings may take a decision, on the basis of a proposal of a person directing the proceedings, regarding the placement of such person in a psychiatric hospital until the court takes a decision regarding the determination of compulsory measures of a medical nature.

Section 600. Completion of Pre-trial Proceedings

(1) A public prosecutor shall complete pre-trial proceedings for the determination of compulsory measures of a medical nature by taking a decision regarding the sending of a criminal case to court for the determination of compulsory measures of a medical nature, and such decision shall not be subject to appeal.

(2) If there are several accused in a criminal case and a public prosecutor takes a decision for one or more of such accused regarding the sending of the case to court for the determination of compulsory measures of a medical nature, the public prosecutor shall complete the pre-trial proceedings in relation to the other accused in accordance with general procedures.

(3) If the criminal proceedings indicated in Paragraph two of this Section may be completed in relation to all accused simultaneously, the case shall be sent to the court for adjudication in a single proceedings.

Section 601. Decision regarding the Sending of a Criminal Case to Court

A decision regarding the sending of a criminal case to a court for the determination of compulsory measures of a medical nature shall, in additional to general requirements, indicate the circumstances referred to in Section 595, Paragraph one, Clauses 3 and 4 of this Law and ascertained in pre-trial proceedings, and the grounds for the determination of compulsory measures of a medical nature.

Section 602. Preparation for a Court Session

In deciding a matter regarding which persons are to be summoned to a court session, a judge shall give an order to convey to the court session the person against whom the proceedings for the determination of compulsory measures of a medical nature are taking place, if the nature of the illness of such person allows for such conveyance.

Section 603. Adjudication of a Criminal Case in a Court Session

(1) A criminal case regarding the determination of compulsory measures of a medical nature shall be adjudicated in a closed court session with the participation of a public prosecutor, defence counsel, the representative of a person, and an expert – psychiatrist, but, in the cases specified in Section 602 of this Law, also with the participation of the person against whom the proceedings are taking place.

(2) A court investigation shall commence with the public prosecutor reading the descriptive part of the decision regarding the sending of the criminal case to court for the determination of compulsory measures of a medical nature.

(3) A court session shall examine evidence and hear the findings of an expert regarding the mental condition of a person, in order to decide the matter of whether such person has committed a criminal offence, and whether compulsory measures of a medical nature shall be determined for such person.

(4) A court of appeals shall summon an expert on the basis of the discretion thereof.

Section 604. Deciding a Criminal Case in Court

In adjudicating a criminal case regarding the determination of compulsory measures of a medical nature, a court shall decide the following matters:

1) whether a criminal offence has occurred;

2) whether such offence was committed by the person against whom the proceedings are taking place;

3) whether the person committed the criminal offence while in a state of mental incapacity or a state of full capacity, and whether such person suffers from mental disturbances at the moment of the taking of the decision;

4) whether a person suffering from mental disturbances fell ill after the committing of the criminal offence, and whether such illness is temporary, and therefore the adjudication of the case should be suspended;

5) whether the person is dangerous to society;

6) what compulsory measures of a medical nature are to be determined for such person.

Section 605. Court Decision in a Criminal Case

(1) Upon finding that a person has committed a criminal offence while in a state of mental incapacity, or that such person has fallen ill with mental disturbances following the committing of a criminal offence, and therefore he or she does not have the capacity to understand his or her actions or to control such actions, the court shall take a decision, in accordance with Section 13 of the Criminal Law, regarding the releasing of such person from criminal liability or punishment, and shall determine one of the compulsory measures of a medical nature provided for in Section 68 of the Criminal Law.

(2) If a person, on the basis of the nature of a committed offence and his or her mental condition, is not dangerous to society, a court may place him or her under the care of a close relative or other persons who shall nurse the patient, and under the supervision of a medical treatment institution on the basis of his or her place of residence.

(3) Having found that a person has full mental capacity, a court shall, with a decision thereof, transfer a criminal case to a public prosecutor for the completion of pre-trial proceedings.

(4) Having found that the participation in a criminal offence of a person being examined has not been proven, or having ascertained circumstances that, in general, do not allow for criminal proceedings, a court shall take a decision regarding the termination of criminal proceedings, and notify regarding such decision the medical treatment institution in which such person is being treated.

(5) Having found that a person being examined has not committed a criminal offence, but such offence was committed by another person, a court shall dismiss criminal proceedings against the person being examined, and send the criminal case to a public prosecutor for the continuation of pre-trial proceedings.

(6) In the operative part of a decision, a court shall determine actions with material evidence and documents, compensation for injury, actions with property upon which an attachment has been imposed, recovery of procedural expenditures, and shall explain the procedures and time persons for the appeal of a court decision.

Section 606. Appeal of Court Decisions

(1) A court decision shall be subject to appeal in accordance with general procedures.

(2) If a court decision is appealed only in connection with the deciding in a case of the compensation for harm caused, such appeal shall not suspend the execution of the decision in the part regarding the application of a compulsory medical measure.

Section 607. Grounds for the Revocation or Modification of Compulsory Measures of a Medical Nature

(1) If the application of compulsory measures of a medical nature specified by a court has ceased to be necessary in connection with the fact that the person for whom such measure has been determined has been cured or his or her health condition has otherwise changed, the head of the medical treatment institution in which the relevant person is being treated shall, based on the findings of a committee of physicians, propose for the court to decide the matter regarding the revocation or modification of the specified compulsory measure of a medical nature.

(2) A person for whom compulsory measures of a medical nature have been specified, or the lawful representative, spouse, or other close relative of such person may submit to a court a request to revoke or modify the specified compulsory measure of a medical nature. In such cases, the court shall request from the relevant medical treatment institutions a conclusion regarding the health condition of such person in regard to whom the request has been submitted.

(3) A public prosecutor may also submit to a court a proposal regarding the revocation or modification of a compulsory measure of a medical nature specified by the court, by attaching to the proposal the conclusion of the relevant medical treatment institution and other documents that are necessary for the deciding of the matter.

(4) The court that has taken a decision regarding the determination of a compulsory measure of a medical nature, or the court of first instance that controls the execution of the decision shall, on the basis of the initiative thereof, adjudicate the matter regarding the revocation or modification of such decision, if, within a term of one year after the determination of the compulsory measure of a medical nature or the last adjudication of the matter regarding the revocation or modification thereof, a request or proposal to revoke or modify the specified compulsory measure of a medical nature has not been submitted.

Section 608. Procedures for the Revocation or Modification of Compulsory Measures of a Medical Nature

(1) A matter regarding the revocation or modification of compulsory measures of a medical nature shall be decided by the court that took the decision regarding the determination thereof, or the court in whose territory of operation the medical treatment institution performing the compulsory treatment is located.

(2) A public prosecutor, defence counsel, and the lawful representative of a person shall participate in a court session. A representative of the relevant medical treatment institution, the person who proposed the adjudication of the matter, and, if necessary, also

the person for whom the compulsory measure of a medical nature has been specified shall be summoned to the court session.

(3) If a court has doubts regarding the findings of a commission of physicians, such court may determine a court psychiatric expert-examination, additionally request documents of a medical nature or other documents, and perform other operations.

(4) Following an examination of circumstances, a court shall hear the conclusion of the public prosecutor and the views of the defence counsel.

(5) A court shall take a decision regarding the revocation or modification of compulsory measures of a medical nature, or regarding a refusal to revoke or modify such measures. The decision shall be subject to appeal only in accordance with cassation procedures.

(6) The repeated proposal of a matter in court shall be allowed not earlier than three months from the day when the court rejected a request regarding the revocation or modification of compulsory measures of a medical nature.

Section 609. Consequences of the Renewal of Criminal Proceedings

(1) If a person who had fallen ill with mental disturbances following the committing of a criminal offence is found to be healthy, a court shall, in accordance with the procedures specified in Section 608 of this Law, take a decision regarding the revocation of compulsory measures of a medical nature and send the case to the public prosecutor for the completion of pre-trial proceedings.

(2) The time spent in a medical treatment institution shall be conformed to the time spent in detention.

Chapter 56
Criminal Proceedings in Cases regarding the Exoneration of a Deceased Person

Section 610. Reasons for the Continuation of Criminal Proceedings for the Exoneration of a Deceased Person

(1) If a person directing the proceedings has, with a decision thereof, terminated criminal proceedings in connection with the death of a person, or has terminated criminal proceedings on the basis of a reason other than exoneration by essentially finding a person guilty in the committing of a criminal offence, and such person died after such guilty finding, the lawful representative and close relatives of such person, as well as other persons who have facts at their disposal that testify regarding the innocence of the deceased person, may submit an application, within a term of one year after the taking of such decision, regarding the continuation of criminal proceedings for the exoneration of the deceased person.

(2) An application regarding the continuation of criminal proceedings for the exoneration of a deceased person may also be submitted in the case where a suspect or accused has died, but the person directing the proceedings has not yet terminated criminal proceedings.

Section 611. Decision regarding the Continuation of Criminal Proceedings for the Exoneration of a Deceased Person

(1) A person directing the proceedings shall adjudicate the application of a person regarding the continuation of criminal proceedings for the exoneration of a deceased person in which information is provided regarding facts that testify regarding the innocence of such person in the committing of a criminal offence, examine such information in connection with the information already in the materials of the criminal case, and take one of the following decisions within a term of 10 days after the receipt of the application:

1) to revoke the decision regarding the termination of criminal proceedings and continue criminal proceedings for the exoneration of the deceased person;

2) reject the application.

(2) A person directing the proceedings shall immediately send a copy of a decision to the submitter of an application, who, in the case of the rejection of the application, may appeal such decision in accordance with the procedures specified in Chapter 24 of this Law.

Section 612. Special Features of the Continuation of Pre-trial Criminal Proceedings

(1) After a decision has been taken regarding the continuation of criminal proceedings for the exoneration of a deceased person, pre-trial proceedings shall take place in compliance with the general procedures specified in this Law, as well as with the provisions of this Chapter.

(2) A person directing the proceedings shall take a decision regarding the involvement in proceedings of a person who submitted an application for the continuation of criminal proceedings for the exoneration of a deceased person, and shall inform such person regarding the rights thereof.

(3) A person directing the proceedings shall perform the necessary procedural actions in pre-trial proceedings in order to examine the information provided in an application.

Section 613. Completion of Pre-trial Proceedings for the Exoneration of a Deceased Person

(1) An investigator, with the consent of a supervising public prosecutor, or a public prosecutor may, with a decision regarding the termination of criminal proceedings, complete pre-trial proceedings for the exoneration of a deceased person:

1) on the basis of a reason other than exoneration;

2) with a justification that exonerates the deceased person, simultaneously deciding the matter regarding the renewal of the previously restricted rights of such person, if possible;

3) with an exonerating justification in the part regarding the deceased person, simultaneously deciding the matter regarding the renewal of the previously restricted

rights of such person, if possible, but transferring the materials of the criminal case for investigation in order to ascertain the guilty person.

(2) A person directing the proceedings shall immediately send a copy of a taken decision to the submitter of an application, informing him or her regarding his or her rights to familiarise him or herself with the materials of the case and to appeal, within a term of 10 days, the decision in court.

Section 614. Court Proceedings for the Exoneration of a Deceased Person

(1) Having received a complaint from a submitter of an application regarding the termination of pre-trial proceedings, a judge shall:

1) request the materials of the criminal case from the performer of the pre-trial proceedings;

2) determine the time and place of a court session;

3) summon the necessary person to the court session.

(2) A criminal case for the exoneration of a deceased person shall be adjudicated in a court session with the participation of a public prosecutor, the submitter of the application, and the defence counsel, if such defence counsel exists.

(3) A court session shall hear the complaint of the submitter of an application or a defence counsel, the report of a public prosecutor regarding the essence of the case, and examine submitted evidence.

Section 615. Deciding of a Criminal Case

(1) In adjudicating a criminal case regarding the exoneration of a deceased person, a court shall decide whether a criminal offence has take place and whether the person regarding whom the proceedings are taking place committed such offence.

(2) Having recognised that the participation of a deceased person in a criminal offence has not been proven, or having ascertained circumstances that do not, in general, allow for criminal proceedings, a court shall take a decision regarding the termination of criminal proceedings, exonerating the relevant person.

(3) Having recognised that a criminal offence has taken place and that the person regarding whom proceedings are taking place committed such offence, a court shall take a decision regarding the termination of criminal proceedings without exonerating the relevant person.

(4) Having recognised that a deceased persons has not committed a criminal offence, but such offence was committed by another person, a court shall dismiss criminal proceedings against the deceased person and send the criminal case to the Office of the Prosecutor for the continuation of the criminal proceedings.

Section 616. Procedures for the Appeal of a Court Decision

(1) A court decision shall be subject to appeal in accordance with general procedures.

(2) A person who has requested the continuation of proceedings has the same rights to appeal a decision of a court of first instance and a court of appeals as an accused.

Chapter 57
Special Features of Court Proceedings in Adjudicating Complaints regarding the Justification for the Termination of Criminal Proceedings

Section 617. Grounds for the Submission of a Complaint

A person against whom criminal proceedings have been terminated, or the representative or defence counsel thereof, may submit a complaint regarding a decision of a person directing the proceedings or public prosecutor to dismiss criminal proceedings, if such proceedings have been terminated in connection with the following:

1) limitation period of criminal liability, but the person does not admit his or her guilt in the offence;

2) statement of amnesty, but the person does not admit his or her guilt in the offence;

3) the fact that the person committed the offence in conditions that exclude criminal liability, in particular, without violating the necessary boundaries of defence, performing an arrest, in a state of complete necessary, or as a result of a justifiable professional risk, but the relevant person disputes the actual conditions.

Section 618. Procedures and Terms for the Submission of a Complaint

(1) A complaint regarding a decision of a person directing the proceedings or public prosecutor regarding the termination of criminal proceedings shall be submitted and withdrawn in accordance with the general procedures specified in Chapter 24 of this Law, except for that which is specified in this Section.

(2) A decision may be appealed within a term of one month of the day of the receipt of a copy of the decision.

(3) A complaint shall be submitted to a person directing the proceedings, who shall submit such complaint, together with materials, to the court that has jurisdiction over the adjudication of the relevant criminal offence.

(4) If a decision regarding the termination of criminal proceedings has been taken in relation to one person, but the same criminal proceedings are continued against the other persons, a complaint regarding the taken decision shall be attached to the criminal case, and such complaint shall be adjudicated by a court simultaneously with the adjudication of the criminal case. A person directing the proceedings shall inform the submitter of the complaint regarding such actions.

Section 619. Procedures for the Adjudication of Complaints

(1) A judge shall adjudicate a complaint regarding the justification for the termination of criminal proceedings in a court session within a term of one month after the receipt thereof.

(2) If the submitter of a complaint does not arrive at a court session without a justifiable reason, the adjudication of his or her submitted complaint shall be terminated.

(3) A judge shall hear in a court session the submitter of a complaint, the accepter of the appealed decision, and other persons summoned to the court, examine evidence obtained in criminal proceedings and related to the adjudication of the complaint, and take a decision.

Section 620. Deciding of a Complaint in Court

(1) A complaint shall be decided, taking into account that which is specified in Section 344 of this Law.

(2) A decision of a judge shall not be subject to appeal.

Chapter 58
Criminal Proceedings in Private Prosecution Cases

Section 621. Initiation of Criminal Proceedings in Private Prosecution Cases

(1) Criminal proceedings may be initiated in a private prosecution case only if the person for whom harm has been caused has submitted to the court a complaint regarding a concrete person regarding the committing of a criminal offence referred to in Section 7, Paragraph three of this Law.

(2) After the receipt of a complaint, a judge shall examine, not later than the next working day, whether the complaint of the victim correctly indicates the paragraph and section of the Criminal Law on the basis of which criminal proceedings are to be initiated in the private prosecution case, and whether a limitation period of criminal liability has entered into effect, and he or she shall take one of the following decisions:

1) regarding the initiation of criminal proceedings;

2) regarding the refusal to initiate criminal proceedings;

3) regarding the sending the materials on the basis of jurisdiction.

4) A decision of a judge regarding the initiation of criminal proceedings shall not be subject to appeal.

Section 622. Actions of a Court after the Initiation of Criminal Proceedings

(1) In taking a decision regarding the initiation of criminal proceedings, a judge shall determine the time and place for the adjudication of the criminal case, and give an order to the court chancellery:

1) to send a copy of the complaint to the person against whom the prosecution has been pursued;

2) to inform the accused regarding his or her rights and duties, and regarding his or rights to familiarise him or herself in court with the materials attached to the complaint;

3) to inform the victim regarding the place and time of the adjudication of the case;

4) to summon the accused, and, if necessary, witnesses, experts, and other persons, to the court session.

(2) Pre-trial proceedings shall not take place in a private prosecution case.

(3) If an accused submits to a court a complaint regarding a victim not later than up to commencement of the adjudication of the case, both prosecutions may be combined in a single case and adjudicated in a single proceedings. In such case, each of the victims are also simultaneously an accused, and each has the rights and duties of both a victim and an accused.

Section 623. Preparation of a Private Prosecution Case for Trial

The preparation of a private prosecution case for trial in a court session shall take place in accordance with the general procedures specified in this Law.

Section 624. Procedures for the Trial of a Private Prosecution Case

(1) A trial of a private prosecution case shall take place in accordance with the general procedures specified in this Law and in compliance with that which is specified in this Section.

(2) In the preparatory part of a court session in a private prosecution case, a judge shall explain to the victim his or her rights to maintain prosecution or settle with the accused.

(3) A victim shall read his or her complaint at the beginning of a court investigation. After such reading, a judge shall ask the accused whether he or she understands the prosecution and whether he or she admits his or her guilt.

(4) If a settlement takes place before a court retires to the deliberation room to render a judgment, criminal proceedings shall be terminated.

Section 625. Termination in a Court Session of Criminal Proceedings in a Private Prosecution Case

(1) Criminal proceedings in a private prosecution case shall be terminated in the trial stage, if the following circumstances have been ascertained:

1) there is no complaint from a victim;

2) the victim or his or her representative has not arrived for a court session without a justifiable reason;

3) the victim and the accused have settled.

(2) Other provisions provided for in this Law for the termination of proceedings also apply to private prosecution cases.

Chapter 59
Proceedings regarding Criminally Acquired Property

Section 626. Reasons for Initiating Proceedings regarding Criminally Acquired Property

A person directing the proceedings has the right, in the interests of the timely solving of financial matters that have come about in pre-trial criminal proceedings and in the

interests of the economy of proceedings, to separate from a materials of the criminal case regarding criminally acquired property and to initiate proceedings, if the following conditions exist:

1) the totality of evidence provides a basis for believing that the property that has been seized or upon which an arrest has been imposed is of a criminal (related to a criminal offence) origin;

2) due to objective reasons, the transferral of the criminal case to court is not possible in the near future (in a reasonable term), and such transferral may cause substantial unjustified expenses.

Section 627. Decision to Initiate Proceedings regarding Criminally Acquired Property

(1) If the conditions referred to in Section 626 of this Law exist, a person directing the proceedings shall take a decision to initiate proceedings regarding criminally acquired property and transfer the criminal case regarding the criminally acquired property to a court.

(2) A person directing the proceedings shall indicate the following in a decision:

1) the materials that have been separated from the criminal case regarding a criminal offence currently in investigation into the case regarding criminally acquired property;

2) the persons that are related to the concrete property;

3) the actions with the criminally acquired property that he or she proposes.

(3) A decision and the materials attached to such decision shall be sent to a district (city) court.

Section 628. Informing of Persons related to Property

A person directing the proceedings shall immediately send a copy of the decision referred to in Section 627 of this Law to a suspect or accused and the person by whom property has been seized or an attachment has been imposed on property, if such persons exist in the relevant criminal proceedings, or to another person who has the right to concrete property, simultaneously indicating the right to.

1) participate in proceedings regarding criminally acquired property personally or through the intermediation of a defence counsel or representative;

2) express his or her attitude in court, orally or in writing, toward the taken decision;

submit applications to the court.

Section 629. Court Proceedings regarding Criminally Acquired Property

(1) Having received a decision regarding proceedings regarding criminally acquired property, a judge shall:

1) determine the time and place of the court session;

2) summon the necessary persons to the court session.

(2) A court session shall take place within a term of 10 days after the receipt of a decision of a person directing the proceedings.

(3) The person directing the proceedings who has taken a decision, a public prosecutor, if a decision has been taken by an investigator, and the persons referred to in Section 628 of this Law and summoned to the court shall participate in a court session.

(4) A court session shall hear a person directing the proceedings, a public prosecutor, and other summoned persons, and examine the submitted evidence.

Section 630. Court Decision regarding Criminally Acquired Property

(1) In adjudicating materials regarding criminally acquired property, a court shall decide:

1) whether the property is related to a criminal offence;

2) whether there is information regarding the owner or lawful possessor of the property;

3) whether a person has lawful rights to the property;

4) actions with the criminally acquired property.

(2) If a court finds that the connection of property with a criminal offence has not been proven, such court shall take a decision to terminate proceedings regarding the criminally acquired property and indicate in such decision subsequent actions with the relevant property.

Section 631. Court Decision regarding an Appeal in respect of Criminally Acquired Property

A court decision shall be subject to appeal in a court of appeals in accordance with general procedures.

Division Twelve
Entering into Effect of an Adjudication and Examination of Matters related to Adjudications

Chapter 60
Transfer of Judgments and Decision for Execution

Section 632. Entering into Effect of Judgments

(1) A judgment of a court of first instance shall enter into effect when the term for the appeal thereof has terminated in accordance with appellate or cassation procedures, and the judgment has not been appealed.

(2) A judgment of a court of appeals shall enter into effect when the term for the appeal thereof has terminated in accordance with cassation procedures, and the judgment has not been appealed. If a cassation complaint or protest has been submitted, the

judgment shall enter into effect on the day when a court of cassation adjudicated the case, if such court has not revoked the judgment.

(3) If a case has several accused, and if a judgment has been appealed even in relation to one of such accused, a judgment shall not enter into effect in relation to all the accused.

(4) In a judgment of conviction, a court decision regarding a security measure and regarding the ensuring of compensation for injury or confiscation of property shall enter into effect immediately after the pronouncement of the judgment.

Section 633. Entering into Effect of a Court Decision

(1) A decision of a court of first instance shall enter into effect and be executed when the terms for the appeal thereof has terminated and the decision has not been appealed.

(2) A judgment of a court of appeals shall enter into effect when the term for the appeal thereof has terminated in accordance with cassation procedures, and the judgment has not been appealed.

(3) A court decision regarding the termination of a case shall be immediately executed in the part that applies to the releasing of an accused from a security measure related to deprivation of liberty.

(4) A decision of a court of cassation shall enter into effect on the day of the proclamation thereof, and is final.

(5) A decision with which a convicted person is conditionally released prior to term from the serving of a sentence cannot be appealed and shall come into effect without delay.

[17 May 2007]

Section 634. Procedures for the Execution of Judgments and Decisions

(1) A judgment and decision shall be transferred for execution by the court that rendered the judgment, or took the decision in the first instance, not later than within a term of three working days following the entering into effect thereof or the receipt of the case from a court of appellate or cassation instance.

(2) A court shall send an order regarding the execution of a judgment and a copy of the decision to the institution on which the duty to execute the judgment has been imposed in accordance with the law regarding the execution of a penalty. If the matter has been adjudicated in accordance with appellate or cassation procedures, copies of the adjudications of the court of appellate and cassation instance shall also be sent together with the order regarding the execution of the judgment.

(3) A judgment of conviction of an accused, a judgment releasing from a penalty, and a judgment regarding a suspended sentence shall be executed immediately after the pronouncement of the judgment in the part regarding the releasing of the accused from a security measure related to deprivation of liberty.

(4) In order to execute a judgment in the part regarding a pecuniary penalty, confiscation of property, and other recoveries of a financial nature, a court shall send

writs of execution to a bailiff on the basis of the place of residence of the convicted person or on the basis of the location of his or her property, or issued to a victim on the basis of his or her request.

(5) Institutions that execute a judgment shall immediately notify the court that rendered the judgment regarding the execution thereof.

(6) A court of first instance shall control the complete execution of a judgment and decision.

Section 635. Procedures for the Execution of a Decision regarding the Application of Compulsory Measures of a Medical Nature

(1) A decision regarding the application of compulsory measures of a medical nature shall be executed immediately after the entering into effect thereof.

(2) If six months have passed since the day when a decision regarding the application of compulsory measures of a medical nature provided for in Section 68, Paragraph one, Clause 1 of the Criminal Law has entered into effect, and the execution of the decision has not yet been commenced in such term, treatment of the relevant person shall be deferred without the consent thereof up to the receipt of new findings of the commission of physicians.

(3) If six months have passed since the day when a decision regarding the application of compulsory measures of a medical nature provided for in Section 68, Paragraph one, Clauses 2 and 3 of the Criminal Law has entered into effect, and the execution of the decision has not yet been commenced in such term, the relevant person may be placed in a hospital, and treatment without the consent thereof shall be deferred until the receipt of new findings of the commission of physicians.

(4) The treatment of a person may be commenced if a commission of physicians provides findings that the person has not been cured, the state of health thereof has not substantially changed, and the determination of compulsory treatment is necessary.

(5) If a commission of physicians finds that a person has been cured or that his or her state of health has changed to such an extent that compulsory treatment is not necessary, or, in the case referred to in Paragraph three of this Section, compulsory out-patient treatment may be performed, the matter regarding the revocation or modification of a specified compulsory measure of a medical nature shall be adjudicated in accordance with the procedures specified in Section 607 of this Law.

Section 636. Procedures for the Execution of an Injunction regarding a Penalty

(1) An injunction of a prosecutor regarding a penalty shall enter into effect, if such injunction is not subject to appeal or if a complaint has been rejected.

(2) The Office of a Prosecutor shall send a copy of an injunction of a public prosecutor regarding a penalty to the institution upon which the duty to execution such penalty has been imposed in accordance with the law regarding the execution of a penalty. The Public Prosecutor’s Office shall send an injunction regarding a pecuniary penalty, confiscation of property, and other recoveries of a financial nature to a bailiff on

the basis of the place of residence of a person or on the basis of the location of the property thereof.

(3) The institution that executes a specific penalty shall immediately inform the Office of the Prosecutor that issued the injunction regarding the execution thereof.

(4) The Public Prosecutor's Office shall control an injunction regarding the execution of penalties.

Section 637. Report to the Relatives of a Convicted Person regarding the Execution of a Judgment

After a judgment has entered into effect with which deprivation of liberty or custodial arrest has been imposed on a convicted person, the administration of the prison shall ensure the possibility to immediately inform the close relatives thereof, or other persons on the basis of the choice thereof, regarding the place of the serving of the sentence.

Section 638. Deferment of the Execution of a Judgment

(1) If deprivation of liberty or custodial arrest has been imposed, a court may defer the execution of the judgment in the following cases:

1) if the convicted person has fallen ill with a serious illness that hinders the serving of the sentence - until he or she has recovered;

2) if the convicted person is pregnant at the moment of the execution of a judgment - for a term not longer than one year;

3) if the convicted person has juvenile children - for a term until the child reaches three years of age;

4) if the immediate serving of a sentence may cause particularly serious consequences for the convicted person or his or her family in connection with a fire or other natural disaster, or the serious illness or death of the only member of the family with the ability to work, and other exceptional cases - for the term specified by the court, but not longer than three months.

(2) The execution of a judgment shall not be deferred for persons who have been convicted for a serious or especially serious crime.

(3) The payment of a pecuniary penalty may be deferred, or divided into periods, for a term up to one year, if a convicted person has difficulties paying the pecuniary penalty immediately.

Section 639. Rights of a Convicted Person during the Execution of a Judgment

(1) During the execution of a judgment, a convicted person has the right to the protection in court of his or her lawful interests related to the transferral of a judgment for execution, particularly, the right:

1) to summon a defence counsel;

2) to present a submission regarding release from the serving of a sentence in connection with illness or disability;

3) to present a submission regarding conditional release prior to completion of a sentence and regarding other matters related to the execution of a judgment;

4) to participate in court sessions and to provide testimony;

5) to submit materials that have been prepared in order to adjudicate a matter regarding the execution of a judgment;

6) to submit complaints regarding the decisions of a judge.

(2) In adjudicating matters related to the execution of a judgment in relation to convicted persons who have not attained 18 years of age, or convicted persons who have physical or mental deficiencies, the participation of a defence counsel is mandatory.

Chapter 61
Adjudication of Matters that have Arisen During the Execution of Judgments and Decisions

Section 640. Release from the Serving of a Sentence in Connection with Illness

(1) If a convicted person has fallen ill with a mental disturbances during the serving of a sentence of deprivation of liberty, and therefore he or she may not be located in a prison and medical treatment is necessary for him or her, a judge may, based on the findings of an expert-examination, release the convicted person from the serving of the sentence, determining treatment for such person.

(2) If a person referred to in Paragraph one of this Section is not dangerous to society on the basis of the nature of a committed offence and his or her mental condition, a court may place him or her under the care of a close relative or other persons who will nurse the patient, and under the supervision of a medical treatment institution on the basis of his or her place of residence.

(3) If, during the period of serving a sentence, a convicted person whose specified sentence is not related to deprivation of liberty falls ill with mental disturbances, a judge may take a decision regarding his or her release from further serving of the sentence.

(4) If, during the execution of a sentence of deprivation of liberty, a convicted person falls ill with a serious illness that is not mental disturbances, a judge may take a decision regarding his or her release from further serving of the sentence, taking into account the nature of the committed criminal offence, the character of the convicted person, and other circumstances.

(5) In releasing a convicted person from the further serving of a sentence in connection with an illness, a court may release him or her not only from the basic sentence, but also from an additional sentence, indicating such release in a decision.

Section 641. Revocation of Duties Imposed on a Person Convicted with a Suspended Sentence or the Revocation of a Suspended Sentence

(1) If a person convicted with a suspended sentence proves with his or her exemplary behaviour that he or she has been reformed, or due to a justifiable reason is unable to

further fulfil the duties imposed by a court, a judge of a district (city) court may, on the basis of a submission of the institution of the place of residence of such person to which the control of the behaviour of the person convicted with a suspended sentence has been assigned, completely or partially revoke the duties imposed on such person for the term of probation

(2) If a person convicted with a suspended sentence does not fulfil the duties imposed by a court, without justifiable reason or the duties specified in the execution of criminal punishment regulating law, or repeatedly commits an administrative violation for which an administrative penalty has been imposed upon him or her, a judge may, on the basis of a submission of the institution to which the control of the behaviour of the convicted person has been assigned, take a decision regarding the execution of the sentence specified in the judgment for the convicted person, or regarding the extension of the term of probation for him or her up to one year.

(3) A submission shall be adjudicated in a court session, without requesting the criminal case file, in the presence of a person convicted with a suspended sentence and representatives of the institutions that control his or her behaviour.

(4) If a judge rejects a submission regarding a revocation of the duties that have been imposed for the term of probation on a person convicted with a suspended sentence, such submission may be resubmitted after six months.

[17 May 2007]

Section 642. Reduction of Sentences in Exceptional Cases

If a convicted person has assisted in the disclosure of a serious or especially serious crime that is more serious or more dangerous than the criminal offence committed by him or her, a judge of the court whose judgment convicted such persons may, on the basis of a submission of the Prosecutor General, reduce the penalty of such convicted person in accordance with the provisions of Section 60 of the Criminal Law.

Section 643. Conditional Release Prior to the Completion of a Sentence

(1) In accordance with Section 61 of the Criminal Law, a convicted person shall be conditionally released prior to the completion of a sentence of deprivation of liberty or custodial arrest by a judge of the district (city) court according to the place of the serving of the sentence, if a submission of the administrative commission of the prison has been received.

(2) A submission shall be adjudicated in a court session, without requesting the criminal case file. A public prosecutor, a representative of the administrative commission of the prison, and a convicted person shall participate in such court session.

(3) If a court rejects a submission, such submission may be resubmitted after six months.

(4) In conditionally releasing a person prior to the completion of a sentence, a judge may impose the duties specified in Section 55 of the Criminal Law upon the convicted person for the term of the sentence not served.

(5) If a person who has been conditionally released prior to the completion of a sentence does not, without a justifiable reason, fulfil the duties imposed by a court or the duties specified in the execution of criminal punishment regulating law, or repeatedly commits an administrative violation for which an administrative penalty has been imposed upon him or her, a judge may take a decision, on the basis of a submission of the institution to which the control of the behaviour of the convicted person has been assigned, regarding the execution of the part of the sentence not served.

[17 May 2007]

Section 644. Substitution or Revocation of Police Supervision

(1) If a person to whom police supervision has been applied violates the provisions thereof in bad faith, the district (city) court according to the place of residence of the convicted person may, on the basis of a submission of a police institution and in the cases specified in Section 45 of the Criminal Law, substitute the term of the sentence not served with deprivation of liberty for the same term.

(2) In accordance with Section 45 of the Criminal Law, a judge of the district (city) court according to the place of residence of the convicted person may reduce police supervision or revoke such supervision, if a justified submission of an administrative commission of a prison, or a police institution, has been received

(3) A submission shall be adjudicated in accordance with the procedures specified in Section 651 of this Law.

Section 645. Substitution of a Pecuniary Penalty with Custodial Arrest or Deprivation of Liberty

(1) If a pecuniary penalty may not be recovered, a judge shall substitute such pecuniary penalty with custodial arrest, or deprivation of liberty, in accordance with the conditions of Section 41, Paragraph four of the Criminal Law.

(2) If a pecuniary penalty is paid while a convicted person serves a sentence of deprivation of liberty or custodial arrest in place thereof, he or she shall be released immediately.

(3) If, during the term when a convicted person serves a sentence of deprivation of liberty, or custodial arrest, in place of a pecuniary penalty, part of the pecuniary penalty is paid, a judge shall reduce the duration of the deprivation of liberty, or custodial arrest, in accordance with the paid part of the pecuniary penalty.

Section 646. Substitution of Forced Labour with Custodial Arrest

If a person who has been convicted with forced labour evades, in bad faith, the serving of the sentence, a court shall substitute such sentence with custodial arrest in accordance with the provision of Section 40, Paragraph three of the Criminal Law.

Section 647. Execution of a Penalty after the Application of Compulsory Measures of a Correctional Nature

(1) If a minor who has been released from an imposed penalty and to whom a compulsory measure of a correctional nature has been applied does not fulfil the duties imposed by a court, the penalty applied to such minor shall be executed.

(2) A matter regarding the execution of a penalty shall be decided by the district (city) court according to the place of residence of the minor and in accordance with the procedures provided for in this Law.

Section 648. Inclusion of Time Spent in a Medical Treatment Institution in the Term of a Sentence

If a convicted person who is serving a sentence of deprivation of liberty or custodial arrest is placed in a medical treatment institution, the time spent in such institution shall be included in the term of the sentence.

Section 649. Execution of a Judgment, if Other Unexecuted Judgments Exist

If several unexecuted judgments exist in relation to a convicted person, a judge of the court that rendered the last judgment, or a judge of a court of the same level according to the place of the execution of the judgment, shall, on the basis of a submission of the institution or public prosecutor that executed the judgment, take a decision, in accordance with Section 50, Paragraph five or Section 51 of the Criminal Law, regarding the determination of a final sentence on the basis of the totality of such judgments.

Section 650. Courts that Decide Matters Related to the Execution of Judgments

(1) Matters that are related to the execution of a sentence specified in a judgment, and doubts and uncertainties that arise in the execution of a judgment, shall be decided, on the basis of a submission of the institution or public prosecutor that executed the judgment, by a judge of the court that rendered the judgment.

(2) If a judgment is being executed outside of the region of operation of the court that rendered the judgment, such matters shall be decided, on the basis of a submission of the institution or public prosecutor that executed the judgment, by a judge of a court of the same level in the region of operation of which the convicted person is serving the sentence.

Section 651. Procedures for the Deciding of Matters Related to the Execution of Judgments

(1) Matters related to the execution of a judgment shall be decided by a judge in a court session, with the participation of a public prosecutor and the convicted person, for whom the rights provided for in Section 71 of this Law shall be ensured. In the case of the unjustified non-attendance of the convicted person a decision may be taken without his or her presence.

(2) If a judge adjudicates a matter regarding the releasing of a convicted person from the serving of a sentence due to illness or disability, or a matter regarding the placing of a released person under the trusteeship of medical treatment institutions, a representative of

the commission of physicians that provided the findings shall participate in the court session.

(3) If a judge adjudicates matters related to the execution of a sentence on the basis of a judgment, a representative of the institution that supervises the execution of the sentence, or controls the behaviour of a person who has been convicted with a suspended sentence, shall be summoned to the court session.

(4) If persons who have sent a submission or expressed a request do not arrive to a court session, without a justifiable reason, the adjudication of the case shall be deferred.

(5) A judge shall open a court session and notify what case is being adjudicated, and then examine whether the summoned persons have arrived for the court session, and decide the matter regarding the recusal of a judge, public prosecutor, secretary of the court session, or interpreter.

(6) The adjudication of a case shall commence with the reading of a submission or request, which shall be performed by the submitter. Following such reading, the court shall hear the views of the public prosecutor and other persons. The convicted person and his or her defence counsel shall speak last. Then, the judge shall take a decision in the deliberation room.

(7) All court decisions that have been taken in the matters related to the execution of a judgment, except in the case provided for in Section 633, Paragraph five of this Law, may be appealed within a term of 10 days. A complaint of a court of supreme instance shall be adjudicated in accordance with the procedures specified in this Section, and a decision thereof is final.

[19 January 2006; 17 May 2007]

Section 652. Procedures for the Deciding of Matters Related to the Execution of a Penalty Specified in the Injunction of a Public Prosecutor

(1) Matters that are related to the execution of a penalty specified in the injunction of a public prosecutor regarding the penalty, and the doubts and uncertainties that arise in executing such penalty, shall be decided, in accordance with the procedures specified in this Chapter, by the chief public prosecutor of the prosecutorial institution whose public prosecutor had issued the injunction regarding the penalty, but regarding the issue of replacement of penalty – a court.

(2) A decision of a chief public prosecutor shall not be subject to appeal.

[19 January 2006]

Section 653. Procedures for the Removal of a Conviction

(1) Matters regarding the removal of a conviction shall be adjudicated by a judge of the district (city) court according to the place of residence of the person who has served a sentence, if a request of such person, or the defence counsel or lawful representative thereof, has been received.

(2) A court shall notify a public prosecutor regarding a received request. The non-arrival of the public prosecutor to the court session shall not be an impediment to the adjudication of the matter regarding the removal of a conviction.

(3) The participation in a court session of the person in relation to whom a request regarding the removal of a conviction is being adjudicated is mandatory. Such person has the right to assistance of counsel.

(4) The adjudication of a matter regarding the removal of a conviction shall commence with the reading of a request. Following such reading, a judge shall hear the views of summoned persons and take a decision in the deliberation room.

(5) If a request regarding the removal of a conviction has been rejected, such request may be resubmitted not earlier than six months after the day when the decision was taken regarding the rejection of such request.

(6) A court decision in a matter regarding the removal of a conviction may be appealed on regarding the non-observance of the procedural requirements specified in this Section.

Section 654. Appeal of Decisions of Administrative Commissions of Prisons

(1) The administrative commission of a prison shall take decisions regarding the softening or intensification of the regime for the execution of a sentence of a convicted person, as well as a decision to propose that the court release the convicted person conditionally prior to the term of the sentence.

(2) The decisions referred to in Paragraph one of this Section may be appealed by a convicted person, or his or her lawful representative or defence counsel, and a public prosecutor may submit a protest regarding such decisions.

(3) Such complaints and protests shall be adjudicated, in accordance with the procedures specified in Section 651 of this Law, by a judge of the district (city) court according to the location of the prison.

[17 May 2007]

Division Thirteen
Review of Adjudications

Chapter 62
Renewal of Criminal Proceedings in connection with Newly Disclosed Circumstances

Section 655. Grounds for the Renewal of Criminal Proceedings in connection with Newly Disclosed Circumstances

(1) Criminal proceedings wherein a valid court judgment or decision exists may be renewed in connection with newly disclosed circumstances.

(2) The following circumstances shall be recognised as newly disclosed:

1) false testimony knowingly provided by a victim or witness, false findings or a translation knowingly provided by an expert, forged material evidence, forged decisions, or forged minutes of an investigation or court operations, as well as other forged evidence

that has been the basis for the rendering of an unlawful court adjudication has been recognised by a valid court judgment;

2) criminal maliciousness by a judge, public prosecutor, or investigator that has been the basis for the taking of an unlawful court adjudication has been recognised by a valid court judgment;

3) other facts that were not known to a court in rendering a judgment, and which, in and of themselves or together with previously determined circumstances, indicate that a convicted person is not guilty or has committed a lesser or more serious criminal offence than the offence for which he or she has been convicted, or testify regarding the guilt of an acquitted person or a person in relation to whom a matter has been terminated;

4) Findings of the Constitutional Court regarding the non-compliance of legal norms, or an interpretation thereof, to the Constitution, on the basis of which a court adjudication has entered into effect;

5) the findings of an international judicial authority regarding the fact that an adjudication of a Latvian court that has entered into effect does not comply with the international regulatory enactments binding to Latvia.

(3) If the rendering of a judgment is not possible due to the fact that a limitation period has come into effect, an act of amnesty has been issued, individual persons have been granted clemency, or an accused has died, the existence of the newly disclosed circumstances referred to in Paragraph two, Clauses 1 and 2 of this Section shall be determined by an investigation, which shall be performed in accordance with the procedures provided for in this Section.

Section 656. Terms for the Renewal of Criminal Proceedings in connection with Newly Disclosed Circumstances

(1) The new adjudication of a judgment of acquittal or a decision regarding the termination of criminal proceedings shall be permitted only during the limitation period of criminal liability specified in the Law, and not later than one year from the day of the determination of the newly disclosed circumstances.

(2) If criminal proceedings have been terminated with a judgment of conviction, then, in disclosing circumstances that indicate that a concrete person has performed a more serious criminal offence than the offence regarding which such person has been convicted, criminal proceedings may be renewed during the limitation period specified for the more serious criminal offence.

(3) The new adjudication of a judgment of conviction in relation to newly disclosed circumstances that benefit a convicted person shall not be restricted by a term.

(4) The death of a convicted person shall not be an impediment to the renewal of criminal proceedings in a case in order to exonerate such person.

(5) The day of the determination the newly disclosed circumstances shall be recognised as:

1) the day when the relevant judgment came into effect, in the cases specified in Section 655, Paragraph two, Clauses 1 and 2 of this Law;

2) the day when the public prosecutor took a decision regarding the renewal of proceedings in relation to the newly disclosed circumstances, in the cases specified in Section 655, Paragraph two, Clause 3 of this Law.

Section 657. Renewal of Criminal Proceedings in connection with Newly Disclosed Circumstances

(1) A public prosecutor has the right to renew criminal proceedings in connection with newly disclosed circumstances.

(2) The reason for the renewal of criminal proceedings shall be the application of the person involved in criminal proceedings and the representative thereof, as well as information acquired during the course of an investigation or trial of another criminal case, if the grounds specified in Section 655, Paragraph two of this Law exist.

(3) An application regarding newly disclosed circumstances shall be examined by a public prosecutor according to the location of the adjudication of the initial criminal proceedings.

(4) A public prosecutor shall take a decision regarding the renewal of criminal proceedings in connection with newly disclosed circumstances, and lead an investigation in connection with newly disclosed circumstances, by complying with the provisions of this Law regarding pre-trial criminal proceedings, and shall notify an applicant thereof.

(5) If a public prosecutor refuses to renew criminal proceedings in connection newly disclosed circumstances, he or she shall take a reasoned decision regarding such refusal, and notify the applicant thereof, by sending a copy of the decision to such applicant and explaining his or her rights to appeal such decision.

Section 658. Actions of a Public Prosecutor following the Completion of an Investigation of Newly Disclosed Circumstances

(1) If, after the completion of an investigation of newly disclosed circumstances, a public prosecutor finds that there is a basis for revoking an adjudication, he or she shall draw up a conclusion regarding such revocation, basing such conclusion on the evidence acquired in the investigation of the newly disclosed circumstances.

(2) A public prosecutor shall send a conclusion together with a criminal case and the materials of an investigation acquired while investigating newly disclosed circumstances to a court in accordance with the provisions of Section 659 of this Law.

(3) If, following an investigation of newly disclosed circumstances, a public prosecutor does not find a basis for revoking an adjudication due to newly disclosed circumstances, he or she shall take a decision regarding revocation.

(4) A public prosecutor shall send a copy of a decision regarding the completion of an investigation of newly disclosed circumstances to an applicant, simultaneously explaining his or her rights to appeal such decision.

Section 659. Courts that Adjudicate Cases in relation to Newly Disclosed Circumstances

A conclusion of a public prosecutor and submitted materials shall be adjudicated:

1) regarding a case in which an adjudication has been rendered by a court of first instance or a court of appeals - by a court one level higher than the court that rendered the adjudication;

2) regarding a case in which an adjudication has been taken by the Senate of the Supreme Court - five senators of the Supreme Court who have not previously participated in the adjudication of such criminal case, under the leadership of the chairperson of the court or his or her deputy.

Section 660. Procedures in Accordance with which a Court Adjudicates Cases in relation to Newly Disclosed Circumstances

(1) Having receiving materials with a conclusion of a public prosecutor regarding newly disclosed circumstances, a judge shall determine the day of the adjudication of the criminal case, and shall notify the interested parties regarding such day, simultaneously explaining the rights thereof to participate in the court session.

(2) The participation of a public prosecutor at the court session is mandatory.

(3) The non-attendance of parties, if such parties have been notified in a timely manner regarding the time and place of the adjudication of a case, shall not be an impediment to the adjudication of the case.

(4) A convicted person who is in detention shall, on the basis of his or her request, be ensured participation in a court session.

(5) The adjudication of a case in the courts referred to in Section 659 of this Law shall take place in accordance with the procedures specified in Section 561 of this Law.

Section 661. Procedures if Criminal Proceedings have been Renewed in relation to Newly Disclosed Circumstances

(1) Following the renewal of criminal proceedings in connection with newly disclosed circumstances, a pre-trial investigation, trial of the case, and appeal of a court adjudication shall take place in accordance with the general procedures.

(2) In adjudicating a criminal case in which a judgment has been revoked in connection with newly disclosed circumstances, the court shall not be bound by the sentence specified in the revoked judgment.

Chapter 63
New Examination of a Valid Adjudication in relation to a Substantial Violation of the Norms of a Material or Procedural Law

Section 662. Adjudications that may be Adjudicated *De novo*

(1) A court adjudication that has entered into effect may be adjudicated *de novo*, if such adjudicated has not been adjudicated in accordance with cassation procedures, on the basis of an application or protest of the persons referred to in Section 663 of this Law.

(2) An adjudication that has entered into effect may be adjudicated *de novo* in criminal proceedings wherein a special law regarding the exoneration of a person is to be applied.

Section 663. Persons who have the Right to Submit an Application or Protest

(1) An advocate may submit an application regarding the re-examination of a court adjudication under the assignment of the convicted or acquitted person, or under the assignment of the person against whom criminal proceedings have been terminated with a court decision.

(2) The Prosecutor General or the Chief Prosecutor of the Criminal Justice Department of the Office of the Prosecutor General may submit a protest on the basis of the initiative thereof or on the basis of a request of the persons referred to in Paragraph one of this Section.

Section 664. Rights to Withdraw an Application or Protest

(1) The submitter of an application or protest has the right to withdraw such application or protest up to the commencement of the adjudication of a case.

(2) The Prosecutor General may also withdraw a protest of the Chief Prosecutor of the Criminal Justice Department of the Office of the Prosecutor General.

Section 665. Grounds for the Submission of an Application or Protest

An application or protest may be submitted, if:

1) an adjudication has been taken by an unlawful composition of the court;

2) a service investigation has determined that one of the judges did not sign the adjudication because he or she did not participate in the rendering of the adjudication in accordance with the procedures specified by law;

3) the violations referred to in Sections 574 or 575 of this Law have led to the unlawful deterioration of the condition of the convicted person.

[19 January 2006]

Section 666. Form of an Application or Protest

(1) An application or protest shall be submitted in writing.

(2) An application or protest shall indicate and substantiate the grounds for the appeal of an adjudication referred to in Section 665 of this Law.

Section 667. Term for the Submission of an Application or Protest

The term for the submission of an application or protest shall not be subject to restrictions.

Section 668. Requesting Criminal Cases for Examination

(1) The chairperson and senators of the Supreme Court may request a criminal case for any court in order to decide the matter regarding the adjudication of an application or the adjudication of a protest of a public prosecutor.

(2) The Prosecutor General and the Chief Prosecutor of the Criminal Justice Department of the Supreme Court may request a criminal case for any court in order to decide the matter regarding the adjudication of an application or the submission of a protest.

(3) The persons referred to in Section 663, Paragraph one of this Law, and the advocates representing the interests thereof, have the right to acquaint themselves with the materials of a criminal case, in order to prepare an application, in the authority wherein the criminal-case file is located, and to receive copies of the necessary case materials.

Section 669. Suspension of the Execution of Adjudications

If the Senate of the Supreme Court has accepted for adjudication an application or protest, such Senate may defer or suspend the execution of a judgment or decision until the new adjudication.

Section 670. New Examination of an Adjudication in Court

The Senate of the Supreme Court shall re-adjudicate, in accordance with the procedures specified in Sections 582-586 of this Law, applications and protests regarding judgments and decisions that have entered into effect.

Section 671. Amount of the Re-Examination of Adjudications

(1) In adjudicating an application or protest, a court shall examine the judgment or decision in the disputed part.

(2) A court may also examine a judgment and decision in full amount and in relation to all convicted persons, if there are grounds for the revocation of an adjudication regarding violations of the law that have led to the incorrect deliberation of a case.

Section 672. Decisions Taken as a Result of the Adjudication of Applications or Protests

(1) One of the decisions indicated in Section 587 of this Law may be taken as a result of the adjudication of an application or protest.

(2) The content of a decision shall conform to the requirements specified in Section 588 of this Law.

Part C
International Co-operation in the Criminal-legal Field

Chapter 64
General Provisions of Co-operation

Section 673. Types of International Co-operation

(1) Latvia shall request international co-operation in criminal matters from a foreign state (hereinafter also - criminal-legal co-operation), and shall ensure such co-operation:

1) in the extradition of a person for criminal prosecution, litigation, or the execution of a judgment, or for the determination of compulsory measures of a medical nature;

2) in the transfer of criminal proceedings;

3) in the transfer of a convicted person for the execution of a sentence of deprivation of liberty;

4) in the execution of procedural actions;

5) in the recognition and execution of a judgment;

6) in other cases provided for in international treaties.

(2) Criminal-legal co-operation with international courts and with courts and tribunals established by international organisations (hereinafter - international court) shall provide for the transfer of persons to international courts, for procedural assistance for such courts, and for the execution of the adjudications of international courts.

Section 674. Lawful Basis of Criminal-legal Co-operation

(1) The sources of criminal-procedural rights specified in Section 2 of this Law shall regulate criminal-legal co-operation.

(2) The criminal procedure of another state may be applied, if such necessity has been justified in a request for criminal-legal co-operation, and if such application is not in contradiction with the basic principles of Latvian criminal procedure.

(3) Latvia may request that a foreign state, in fulfilling a request for criminal-legal assistance, apply the criminal procedure specified in Latvia, or separate principles thereof.

Section 675. Criminal-legal Co-operation in Competent Institutions

(1) The competent institutions that are specified in regulatory enactments shall send and received requests for criminal-legal co-operation, and such institutions shall regulate international co-operation in criminal matters.

(2) A Latvian competent institution may agree, in criminal-legal co-operation, with a foreign competent institution regarding the direct communication between courts, Offices of the Prosecutor, and investigative institutions.

(3) If an agreement with a foreign state regarding criminal-legal co-operation does not exist, the Minister for Justice and the Prosecutor General have the right, within the framework of the competence specified in this Part of this Law, to submit to the foreign state a request for criminal-legal co-operation, or to receive a request from the foreign state for criminal-legal co-operation.

(4) The officials referred to in Paragraph three of this Section may request from, or submit to, a foreign state a confirmation that criminal-legal co-operation will be mutually observed, that is, that the co-operation partner will hereinafter provide assistance, observing the same principles.

Section 676. Admissibility of Evidence within the Framework of Criminal-legal Co-operation

Evidence that has been acquired as a result of criminal-legal co-operation and in accordance with the criminal procedure specified in a foreign state shall be made equivalent to the evidence acquired in accordance with the procedures provided for in this Law.

Section 677. Participation of an Advocate

(1) In performing criminal-legal co-operation, an advocate shall be summoned to provide legal assistance to a person, or, in the cases provided for in this Part of this Law, to perform the assistance of a defence counsel.

(2) An advocate may provide legal assistance from the moment when a person is arrested or detained, or in other cases provided for in this Law.

(3) In providing legal assistance, an advocate has the following rights:

1) to meet with the person under conditions that ensure the confidentiality of the conversation;

2) to submit evidence and submit requests.

(4) The participation of an advocate is mandatory in the cases specified in Section 83 of this Law.

(5) An investigating judge or court may, in assessing the financial situation of a person, completely or partially release such person from payment for legal assistance. If the person has been released from payment for legal assistance, the work remuneration of an advocate shall be covered by State resources in accordance with the procedures specified in regulatory enactments. The Latvian Council of Sworn Advocates may also release a person from payment for legal assistance and cover the work remuneration of an advocate from the budget thereof.

(6) In the proceedings of criminal-legal co-operation, a defence counsel has the same rights as in criminal proceedings taking place in Latvia.

Section 678. Form and Content of a Request for Criminal-legal Co-operation

(1) A request for criminal-legal co-operation shall be submitted in writing, if an international agreement or law has not specified otherwise.

(2) A request shall indicate:

1) the name of the authority of the submitter of the request;

2) the object and essence of the request;

3) a description of the criminal offence and the legal classification of such offence;

4) information that may help identify a person.

(3) A request shall also indicate other information that is necessary for the execution thereof.

Section 679. Language of a Request for Criminal-legal Co-operation

(1) A request for criminal-legal co-operation shall be written and submitted in the official language.

(2) In the cases provided for in international agreements, a translation of a request in the language that the states have chosen as the language of communication shall be attached to the request.

(3) If an international agreement does not determine a language of communication, a request may be submitted to a foreign state without attaching a translation.

(4) If an international agreement does not regulate criminal-legal co-operation with a foreign state, a translation in the language of the relevant state shall be attached to a request.

(5) A competent institution may come to an agreement with the competent institution of a foreign state regarding a different procedure for language use.

Section 680. Expenditures

Latvia shall cover expenditures that come about in performing criminal-legal co-operation in the territory thereof and in connection with the transit of a person to Latvia through the territory of a third state, if this Part of this Law, another regulatory enactments, or the mutual agreement of the states does not specify otherwise.

Section 681. Transit of Persons

(1) If criminal-legal co-operation is related to the transportation of a person from a foreign state to Latvia through the territory of a third state, a competent institution of Latvia shall, if necessary, issue a transit request to such third state.

(2) If a person is transported with air transport, and landing in the territory of a third state is not planned, a competent institution of Latvia shall not issue a transit request, and, in the cases provided for in international agreements, the third state shall only be inform regarding such transportation.

(3) A competent institution of Latvia may allow, on the basis of a request of a foreign state, the transit of a person related to criminal-legal co-operation through the territory of Latvia. A transit request may be rejected, if the transit of a citizen or non-citizen of Latvia – a subject of the law On the State of Former Citizens of the USSR who do not have Latvian Citizenship or the Citizenship of Another State (hereinafter - Latvian citizen) is requested.

(4) A transit request shall be written just like a request for a concrete type of criminal-legal co-operation.

Division Fourteen
Extradition

Chapter 65
Extradition of a Person to Latvia

Section 682. Provisions for the Submission of a Request for the Extradition of a Person

(1) The extradition of a person may be requested, if there are grounds for believing that the following are located in a foreign state:

1) a person who is a suspect or accused in the committing of a criminal offence that may be penalised on the basis of the Criminal Law of Latvia, and regarding which deprivation of liberty is intended with a maximal boundary of not less than one year, if an international agreement does not provide for another term;

2) a person who has been convicted in Latvia with deprivation of liberty or custodial arrest for a term of not less than four months.

(2) The extradition of a person may also be requested regarding several criminal offences if extradition may not be applied to one of such offences because such offence does not comply with a condition regarding a possible or imposed penalty.

(3) A request for the extradition of a person may not be submitted if the seriousness or nature of a criminal offence does match the expenses of the extradition.

Section 683. Procedures for the Submission of a Request for the Extradition of a Person

(1) If the provisions referred to in Section 682, Paragraph one of this Law have been determined, a person directing the proceedings shall turn to the Office of the Prosecutor General with a written proposal to request from a foreign state the extradition of a person.

(2) A proposal shall indicate the information referred to in Section 678 of this Law, and the attachments referred to in Section 684 of this Law shall be attached to such proposal.

(3) A proposal shall be adjudicated within a term of 10 days after the receipt thereof in the Office of the Prosecutor General, and a person directing the proceedings shall be informed regarding the results of such adjudication. The Prosecutor General may extend the term of adjudication, and the person directing the proceedings shall be informed regarding such extension.

(4) If there are grounds for requesting the extradition of a person, the Office of the Prosecutor General shall prepare and send a request to a foreign state.

(5) The Office of the Prosecutor General also may submit to a foreign state a request for the extradition of a person on the basis of the initiative thereof.

Section 684. Request for the Extradition of a Person

(1) A request for the extradition of a person shall be written in accordance with the requirements of Section 678 of this Law, and the following shall be attached to such request:

1) a decision regarding the application of a security measure – detention, or a court judgment of conviction that has entered into effect or a certified copy thereof;

2) a decision regarding the recognition of a person as a suspect or regarding the holding of a person criminally liable, or a certified copy of the relevant decision;

3) the text of the section of a law on the basis of which a person is held suspect, held criminally liable, or convicted, and the texts of the sections of a law that regulate a limitation period and the classification of a criminal offence;

4) an order regarding the execution of a judgment or a certified copy thereof;

5) information that may help identify a person;

6) other documents, if such documents have been requested by a foreign state.

(2) True copies, copies and extracts of the documents attached to an extradition request shall be prepared and certified in accordance with the procedures specified in document preparation and completion regulatory enactments.

[17 May 2007]

Section 685. Grounds and Procedures for the Announcement of an International Search for a Person

(1) If the conditions referred to in Paragraph one of Section 682 have been determined, and there are grounds for believing that a person has left the territory of Latvia but the whereabouts of such person are unknown, a person directing the proceedings shall request the Office of the Prosecutor General to take a decision regarding an international search for such person for the purpose of requesting the extradition of such person, attaching to the request the documents referred to in Section 684 of this Law.

(2) If there are grounds for requesting the extradition of a person, the Office of the Prosecutor General shall take a decision regarding the announcement of an international search for the person, send such decision for execution, and inform a person directing the proceedings regarding such decision.

Section 686. Request for Temporary Detention

(1) Before sending an extradition request, the Office of the Prosecutor General may request for a foreign state to apply temporary detention to the person to be extradited.

(2) A request regarding temporary detention shall be written in compliance with the requirements of Section 678 of this Law. Such request shall also indicate a decision regarding the application of a security measure – detention, or a judgment of conviction that has entered into effect, and inform regarding the intention of Latvia to submit a request for the extradition of a person.

(3) If a request for the temporary detention of a person has been submitted, an extradition request shall be sent as soon as possible, taking into account the term for temporary detention specified in international agreements.

Section 687. Takeover of a Person Extradited by a Foreign State

(1) The takeover of a person extradited by a foreign state shall be performed by a competent institution of the Ministry of the Interior in the terms specified in international agreements. The Office of the Prosecutor General shall be informed within a term of 24 hours regarding the conveyance of a person to Latvia.

(2) If a person has been extradited during pre-trial proceedings, a public prosecutor or higher ranking public prosecutor shall issue a prosecution to such persons within a term of 72 hours after the conveyance thereof to Latvia, and, if the prosecution has been issued, such public prosecutor or higher raking public prosecutor shall explain to such person his or her right to submit recusals and requests and submit complaints.

(3) If a person has been extradited during a trial, the Office of the Prosecutor General shall notify a person directing the proceedings within a term of three days regarding the fact that the extradited person has been conveyed to Latvia.

(4) If the takeover of an extradited person is related to transit, a competent institution of the Ministry of the Interior shall turn to the Office of the Prosecutor General with a request to receive permission from a third state for the transit of the extradited person.

Section 688. Extradition of a Person from Foreign State for a Term

(1) If a foreign state has deferred the conveyance of a person to be extradited, and such deferment may cause a limitation period of the term of criminal liability or hinder an investigation of a criminal offence, the Office of the Prosecutor General may request for the foreign state to extradite such person for a term.

(2) A request regarding the extradition of a person for a term shall be written just like an extradition request.

Section 689. Frameworks of the Criminal Liability and of the Execution of a Penalty of a Person Extradited by a Foreign State

(1) A person may be held criminally liable and tried only regarding the criminal offence regarding which such person has been extradited.

(2) Such conditions do not apply to cases where:

1) the consent of the extraditing state has been received for criminal prosecution, and litigation, regarding other offences committed before extradition;

2) an offence has been committed after a person was transferred to Latvia;

3) a person did not leave Latvia for a term of 45 days after being released, though he or she had such opportunity;

4) a person left and returned to Latvia after extradition.

(3) A person may be extradited to a third state only with the consent of the extraditing state.

(4) The consent provided for in Paragraph two, Clause 1 of this Section shall be requested in the same way as extradition.

(5) If a final penalty has been specified for a person on the basis of a totality of criminal offences or on the basis of several judgments, but such penalty has been issued only regarding part of such offences or judgments, the court that specified the final penalty shall determine the executable part of the penalty in accordance with the procedures provided for in Division Sixteen of this Law.

Section 690. Inclusion of the Time Spent in Detention in a Foreign State

(1) The term of a detention shall be counted for an extradited person from the moment of the crossing of the border of the Republic of Latvia.

(2) The term that a person has spent, on the basis of a request of Latvia, in detention in a foreign state shall be included in the term of a penalty.

Section 691. Extradition of a Person to Latvia from a European Union Member State

(1) The extradition of a person from Latvia to a European Union Member State shall take place based on a decision taken by a Latvian court regarding the issuance of a European arrest warrant (hereinafter - European arrest decision).

(2) A European arrest decision is an adjudication of a judicial authority of a European Union Member State that has been taken in order for another Member State to extradite a person for the commencement or performance of criminal prosecution or for the execution of a custodial sentence or detention order.

Section 692. Procedures for the Taking of a European Detention Decision

(1) If the conditions referred to in Section 682 of this Law have been determined, a person directing the proceedings shall turn to a district (city) court with a written proposal to taken a European arrest decision.

(2) A proposal shall indicate the information referred to in Section 678 of this Law, and the documents referred to in Section 684 of this Law shall be attached to such proposal.

(3) A court shall adjudicate a proposal within a term of 10 days, and inform a person directing the proceedings regarding a taken decision.

(4) If grounds for the taking of a European arrest decision have been determined in a pre-trial investigation, the investigating judge shall take a European arrest decision and send such decision together with the attached documents to the Office of the Prosecutor General.

(5) The court in the records of which a criminal case is located shall take a European arrest decision in the trial stage of the criminal case.

Section 693. European Detention Decision

The following shall be indicated in a European arrest decision:

1) information regarding the identity and nationality of the requested person;

2) an adjudication on the basis of which a European arrest decision has been issued;

3) the type of offence, the legal classification thereof, and the legal norm to be applied;

4) the circumstances of the offence;

5) the consequences of the offence;

6) the imposed penalty, if the penalty is final, or the boundaries of the penalty that may be applied regarding the offence;

7) material evidence or documents the seizure or transferral of which is necessary;

8) the name, address, telephone and fax number, and e-mail address of the court that took the decision.

Section 694. Fulfilment of a European Detention Decision

(1) If the whereabouts of a requested person are known, the Office of the Prosecutor General shall send a European arrest decision to the competent institution of the relevant European Union Member State, attaching to such decision a translation thereof in the language specified by the Member State.

(2) If a European arrest decision has been taken for the criminal prosecution of a person, the Office of the Prosecutor General may, on the basis of a proposal of a person directing the proceedings and up to the time when a Member State takes a decision regarding the extradition or non-extradition of a person, request that a competent judicial authority of the Member State:

1) examine the person, with the participation of a person directing the proceedings;

2) hand over the person for a term, agreeing regarding the time of return.

(3) If the whereabouts of a requested person are unknown, a report regarding a European arrest warrant shall be placed in the international co-operation information systems.

(4) A competent institution of the Ministry of the Interior shall take over a person within a term of 10 days from the day when a decision was taken regarding the extradition of a person, or come to an agreement with the competent judicial authority of the Member State extraditing the person regarding another time for taking over the person. The Office of the Prosecutor General shall be informed within a term of 24 hours regarding the conveyance of a person to Latvia. The takeover of a person shall take place in accordance with the procedures specified in Section 687, Paragraphs two, three and four of this Law;

Section 695. Conditions related to the Takeover of a Person from a European Union Member State

(1) In taking over a person from a European Union Member State, the conditions referred to in Sections 689 and 690 of this Law shall be complied with.

(2) In addition to that which is referred to in Paragraph one of this Section, a person may also be held criminally liable, and tried, regarding other criminal offences regarding

which such person was not extradited, as well as further extradited to another Member State, in the following cases:

1) the offence of the person is not punishable with deprivation of liberty or a compulsory measure that restricts freedom;

2) the person may be subjected to a penalty that is not related to the deprivation of liberty;

3) the person has agreed thereto after the takeover of such person in Latvia, and such consent was accepted by a public prosecutor in the presence of an advocate, entering such acceptance in the minutes.

Chapter 66
Extradition of a Person to a Foreign State

Section 696. Grounds for the Extradition of a Person

(1) A person who is located in the territory of Latvia may be extradited for criminal prosecution, litigation, or the execution of a judgment, if a request has been received from a foreign state to extradite such person regarding an offence that, in accordance with the law of Latvia and the foreign state, is criminal.

(2) A person may be extradited for criminal prosecution, or litigation, regarding an offence the committing of which provides for a penalty of deprivation of liberty whose maximal boundary is not less than one year, or a more serious penalty.

(3) A person may be extradited for the execution of a judgment by the state that rendered the judgment and convicted the person with a penalty that is related to deprivation of liberty for a term of not less than four months.

(4) If extradition has been requested regarding several criminal offence, but extradition may not be applied for one of such offences because such offence does not comply with the conditions regarding the possible or imposed penalty, the person may also be extradited regarding such criminal offence.

Section 697. Reasons for a Refusal to Extradite a Person

(1) The extradition of a person may be refused, if:

1) a criminal offence has been committing completely or partially in the territory of Latvia;

2) the person is being held as a suspect, is accused, or is being tried in Latvia regarding the same criminal offence;

3) a decision has been taken in Latvia to not commence, or to terminate, criminal proceedings regarding the same criminal offence;

4) extradition has been requested in connection with political or military criminal offences;

5) a foreign state requests the extradition of a person for the execution of a penalty imposed in a judgment by default, and a sufficient bail has not been received that the extradited person will have the right to request the repeated adjudication of the case;

6) extradition has been requested by a foreign state with which Latvia does not have an agreement regarding extradition.

(2) The extradition of a person shall not be admissible, if:

1) the person is a Latvian citizen;

2) the request for the extradition of the person is related to the aim of commencing criminal prosecution of such person or punishing such persons due to his or her race, religion affiliation, nationality, or political views, or if there are sufficient grounds for believing that the rights of the person may be violated due to the referred to reasons;

3) a court adjudication has entered into effect in Latvia in relation to the person regarding the same criminal offence;

4) the person may not, in accordance with a Latvian law regarding the same criminal offence, be held criminally liable, tried, or execute a penalty in connection with a limitation period, amnesty, or another lawful basis;

5) the person has been granted clemency, in accordance with the procedures specified by law, regarding the same criminal offence;

6) the foreign state does not provide a sufficient bail that such state will not impose the death penalty on such person and execute such penalty;

7) the person may be threatened with torture in the foreign state.

(3) An international agreement may provide for other reasons for a refusal of extradition.

Section 698. Person to be Extradited and his or her Rights

(1) A person to be extradited is a person whose extradition has been requested or who has been arrested or detained for the purpose of extradition.

(2) A person to be extradited has the following rights:

1) to know who has requested his or her extradition and regarding what his or her extradition has been requested;

2) to use a language that he or she understands in the extradition proceedings;

3) to provide explanations in connection with extradition;

4) to submit requests, also requests regarding a simplified extradition;

5) to familiarise him or herself with all materials of the examination;

6) to retain an advocate for the receipt of legal assistance.

Section 699. Arrest of a Person for the Purpose of Extradition

(1) An investigator or public prosecutor may arrest a person for up to 72 hours for the purpose of extradition, if there are sufficient grounds for believing that such person has committed a criminal offence in the territory of another state regarding which extradition

has been provided for, or if the a foreign state has announced a search for such person and issued a request for temporary detention or extradition.

(2) An investigator or public prosecutor shall write a protocol regarding the arrest of a person for the purpose of extradition, indicating therein the given name, surname, and other necessary personal data of the arrested person, the reason for the arrest, as well as when such person was arrested and who arrested such person. The arresting person and the person to be extradited shall sign the arrest protocol.

(3) An arresting person shall inform a person to be extradited regarding the rights thereof, a notation in the arrest protocol shall be made regarding such informing.

(4) The Office of the Prosecutor General shall be informed immediately, but not later than within a term of 24 hours, regarding the arrest of a person by sending to such Office the arrest documents of such person. The Office of the Prosecutor General shall inform the state that announced a search for the person.

(5) If temporary or extradition detention has not been applied within a term of 72 hours from the moment of the arrest of a person, the arrested person shall be released or another security measure shall be applied.

Section 700. Grounds for the Application of Temporary Detention

(1) Temporary detention may be applied to a person to be extradited on the basis of a request of a foreign state regarding temporary detention and up to the receipt of an extradition request.

(2) If a request regarding temporary detention indicates a decision of a foreign state regarding the detention of the person or a valid judgment in relation to such person, or indicates that the foreign state will issue an extradition request and the criminal offence regarding which extradition will be requested, or if information has been provided regarding the person to be extradited or if circumstances are not known that would exclude the possibility of extradition, a public prosecutor shall submit a proposal regarding the application of temporary detention and materials justifying such proposal to the investigating judge in whose territory of operation the person has been arrested or the Office of the Prosecutor General is located.

Section 701. Application of Temporary Detention

(1) A judge shall decide regarding the application of temporary detention in a court session, with the participation of a public prosecutor and the person to be extradited.

(2) Having heard a public prosecutor, a person to be extradited, and an advocate, if he or she participates, a judge shall take a reasoned decision that shall not be subject to appeal.

(3) Temporary detention shall be applied for 40 days from the day of the arrest of a person, if an international agreement does not specify otherwise.

(4) A public prosecutor may release a person from temporary detention, if a request of a foreign state regarding the extradition of such person, or a report regarding justified reasons for the delay of such request, has not been received within a term of 18 days after the arrest.

(5) A public prosecutor shall release a person from temporary detention, if:

1) an extradition request is not received within a term of 40 days;

2) an extradition detention is not applied within a term of 40 days;

3) circumstances have become known that exclude the possibility of extradition.

(6) The release of a person shall not cause impediments to the repeated detention or extradition of such person, if a request regarding extradition is received later.

Section 702. Extradition Detention

(1) An extradition detention shall be applied after a request regarding the extradition of a person has been received along with the following:

1) a request of a foreign state regarding the detention of such person or a judgment that has entered into effect in relation to the concrete person;

2) a description of a criminal offence or a decision regarding the holding of the person criminally liable;

3) the text of the section of the law on the basis of which the person has been held criminally liable or convicted, and the test of the section of the law that regulates a limitation period;

4) information regarding the person to be extradited.

(2) If circumstances are not known that exclude the possibility of extradition, the executor of an examination shall submit a proposal regarding an extradition detention and the materials that justify such proposal to an investigating judge in whose territory of operation the person was arrested or the Office of the Prosecutor General is located.

(3) A proposal regarding an extradition detention shall be adjudicated in accordance with the same procedures as a request regarding temporary detention.

(4) If a person to be extradited is detained in Latvia or serving a sentence in Latvia imposed regarding the committing of another criminal offence, the term of the extradition detention shall be counted from the moment of the releasing of the person.

(5) The term of the detention of a person to be extradited shall not exceed one year, and, in addition, shall not be longer than the term of a sentence imposed in a foreign state, if such term is less than one year, counting from the moment of the application of the arrest or detention.

Section 703. Informing of a Foreign State regarding Detention

The Office of the Prosecutor General shall inform the state that submitted a request regarding the detention, or release from detention, of a person to be extradited.

Section 704. Examination of an Extradition Request

(1) Having received a request of a foreign state regarding the extradition of a person, the Office of the Prosecutor General shall commence an examination of such request. A public prosecutor shall ascertain whether the grounds for the extradition of a person

specified in Section 696 of this Law, and the reasons for the refusal of the extradition of a person specified in Section 697 of this Law, exist.

(2) If a request does not have sufficient information in order to decide a matter regarding extradition, the Office of the Prosecutor General shall request from the foreign state the necessary additional information for determining the term for the submission of information.

(3) An examination shall be completed within a term of 20 days from the day of the receipt of an extradition request. If additional information is necessary for the examination, the term shall be counted from the day of the receipt of such extradition request. The Prosecutor General may extend the examination term.

(4) A public prosecutor shall acquaint a person to be extradited with the extradition request within a term of 48 hours from the moment of the receipt thereof, and provide the relevant person with the opportunity to provide explanations.

(5) During an examination, a public prosecutor may perform all the investigative actions provided for in criminal proceedings.

Section 705. Completion of an Examination

(1) Having assessed the grounds and admissibility for the extradition of a person, a public prosecutor shall take a reasoned decision regarding the following:

1) the admissibility of the extradition of the person;

2) a refusal to extradite the person.

(2) If a decision has been taken regarding the admissibility of the extradition of a person, a copy of the decision shall be issued to such person.

(3) A person to be extradited may appeal a decision regarding the admissibility of extradition to the Supreme Court within a term of 10 days of the day of the receipt thereof. If the decision is not appealed, such decision shall enter into effect.

(4) The Office of the Prosecutor General shall notify the relevant person and foreign state regarding a decision regarding a refusal to extradite a person. A prosecutor shall immediately release such person from temporary or extradition detention.

Section 706. Adjudication of a Complaint regarding the Admissibility of Extradition

(1) A panel of three judges of the Supreme Court shall adjudicate a complaint regarding the admissibility of extradition.

(2) A judge who has been assigned to make an account shall request examination materials from the Office of the Prosecutor General and determine the term of the adjudication of a complaint.

(3) The Office of the Prosecutor General, the submitter of a complaint, and his or her advocate shall be notified regarding the term of the adjudication of the complaint and the right to participate in the court session. If necessary, a court shall request other necessary materials and summon persons for the provision of explanations.

(4) The submitter of a complaint shall be ensured the opportunity to participate in the adjudication of the complaint.

(5) If the advocate of a person to be extradited has not arrived, without a justifiable reason, another advocate shall be summoned for the provision of legal assistance, if the person wishes to receive legal assistance.

Section 707. Court Decisions

(1) Having heard the submitter of a complaint, his or her advocate, and a public prosecutor, a court shall retire to deliberate, and take one of the following decisions:

1) to leave a decision of the public prosecutor unmodified;

2) to revoke a decision of the public prosecutor and find extradition to be inadmissible;

3) to transfer the extradition request for additional examination.

(2) A court decision shall not be subject to appeal.

(3) A court shall send a decision and materials to the Office of the Prosecutor General.

(4) If a court finds extradition to be inadmissible, the relevant person shall immediately be released from detention.

Section 708. Decision regarding the Extradition of a Person to a Foreign State

(1) The Office of the Prosecutor General shall send a decision that has entered into effect regarding the admissibility of the extradition of a person, together with examination materials, to the Ministry of Justice.

(2) The Cabinet shall take a decision, on the basis of a proposal of the Minster for Justice, regarding the extradition of a person to a foreign state.

(3) The Cabinet may refuse extradition only if one of the following circumstance exists:

1) the extradition of the person may harm the sovereignty of the State.

2) the offence is considered political or military;

3) there are sufficient grounds for believing that extradition is related to the aim of prosecuting the person due to his or her race, religious affiliation, nationality, gender, or political views.

(4) The Ministry of Justice shall inform a person to be extradited, the relevant foreign state, and the Office of the Prosecutor General regarding a taken decision.

(5) The Ministry of the Interior shall fulfil a decision regarding the extradition of a person.

(6) As soon as a decision has been received regarding a refusal to extradite a person, the Office of the Prosecutor General shall immediately release the person from detention.

Section 709. Extradition on the Basis of a Request of Several States

(1) If the Office of the Prosecutor General has received several extradition requests in relation to one and the same person, an examination of such requests shall be combined in one proceedings, if a decision regarding the following has not been taken:

1) extradition of the person;

2) a refusal to extradite the person;

3) the admissibility of the extradition of the person.

(2) If a decision regarding the extradition of a person has been taken, a request received later shall not be satisfied. The state that submitted the request shall be notified thereof.

(3) If a decision regarding the admissibility of extradition has entered into effect at the moment of the receipt of a request of another foreign state, such decision shall not be submitted to the Cabinet until the completion of an examination of a request received later.

(4) If several foreign states have requested extradition, the Cabinet shall, on the basis of a request of the Minster for Justice and taking into account the nature of the offence, the place of the committing thereof, and the order of the receipt of the requests, determine the state to which the person shall extradited.

Section 710. Transfer of a Person being Extradited

(1) The Ministry of the Interior shall inform a foreign state regarding the time and place of the transfer of a person being extradited, and also regarding the term during which the person was in detention.

(2) The Ministry of the Interior shall come to an agreement with a foreign state regarding another transfer date, if transfer may not take place on the previously specified date due to reasons that are independent of the will of the states.

(3) If a foreign state does not take over a person being extradited within a term of 30 days from the specific date of extradition, a public prosecutor shall release such person from detention.

Section 711. Transfer of a Person for a Term or the Deferral of the Transfer of a Person

(1) If criminal proceedings commenced against a person being extradited must be completed, or a penalty imposed on such person must be fulfilled, in Latvia after a decision has been taken regarding the extradition of the person, the Prosecutor General or Minister for Justice may, in accordance with this Paragraph of the Law, defer the transfer of the requested person to the foreign state.

(2) If the deferral of a transfer may cause a limitation period of the term of criminal liability or hinder the investigation of the criminal offence in a foreign state, and such transfer does not interfere with the performance of court proceedings in Latvia, the Minster for Justice may transfer a person to a foreign state for a term, determining the term for return transfer.

Section 712. Repeated Extradition

If an extradited person evades criminal prosecution or a penalty in a foreign state and has returned to Latvia, such person may be repeatedly extradited on the basis of a request of the foreign state and based on a previously taken decision regarding extradition.

Section 713. Simplified Extradition

(1) A person may be extradited to a foreign state in accordance with simplified procedures, if:

1) the written consent of the person to be extradited has been received for the extradition thereof in accordance with simplified procedures;

2) the person to be extradited is not a Latvian citizen;

3) commenced criminal proceedings must not be completed in Latvia against the person to be extradited, or a sentence imposed on such person in Latvia must not be fulfilled.

(2) A person being extradited shall certify his or her consent for extradition in accordance with simplified procedures to a public prosecutor in the presence of an advocate before a decision is taken regarding the admissibility of extradition.

(3) After the receipt of consent, a public prosecutor shall ascertain only that which is referred to in Paragraph one of this Section, and immediately submit to the Prosecutor General the materials related to extradition.

(4) The Prosecutor General shall take one of the following decisions:

1) regarding extradition of a person;

2) regarding a refusal to extradite a person;

3) regarding the non-application of simplified extradition.

(5) A decision taken by the Prosecutor General shall not be subject to appeal.

(6) A foreign state and a person to be extradited shall be informed regarding the extradition of the person or a refusal to extradite such person, and the relevant decision shall be transferred to the Ministry of the Interior for execution.

Section 714. Extradition of a Person to a European Union Member State

(1) A person located in the territory of Latvia may be extradited to a European Union Member State for the commencement and performance of criminal prosecution, litigation, and the execution of a judgment, if the foreign state has taken a European arrest decision in relation to such person, and the grounds for extradition referred to in Section 696 of this Law exist.

(2) If a person has been extradited regarding an offence referred to in Annex 2 of this Law, and if, regarding the committing of such offence, a penalty of deprivation of liberty is provided for in the state that took the European arrest decision whose maximal boundary is not less than three years, an examination regarding whether such offence is also criminal on the basis of the Latvian law shall not be conducted.

(3) If a European arrest decision has been taken in a foreign state regarding a Latvian citizen, then the extradition of such person shall take place with the condition that the person be transferred back to Latvia, after the conviction thereof, for the serving of a

sentence of deprivation of liberty imposed on such person. Execution of the imposed sentence shall take place in accordance with the procedures specified in Sections 782-801 of this Law.

(4) The extradition of a person may be refused, if:

1) the reasons referred to in Section 697, Paragraph one, Clauses 1-3 of this Law exist;

2) the person may not, in accordance with a Latvian law regarding the same criminal offence, be held criminally liable, tried, or have a penalty executed due to a limitation period;

3) the offence has been committed outside of the territory of the state that has taken a European arrest decision, and such offence, in accordance with Latvian law, is not criminal.

(5) The extradition of a person shall not be admissible, if:

1) in accordance with Latvian law, the person may not be held criminal liability, tried, or punished in connection with amnesty;

2) the person has been convicted regarding the same criminal offence and has served or is serving a penalty in one of the European Union Member State, or such penalty may no longer be executed;

3) the person has not reached the age at which, in accordance with Latvian law, criminal liability comes into effect.

4) the extradition of a Latvian citizen is requested for the execution of a penalty imposed by a European Union Member State.

Section 715. Conditions related to the Extradition of a Person to a European Union Member State

(1) A person to be extradited has the rights referred to in Section 698 of this Law, as well as the right to agree or not agree to an extradition, and the right to be held criminally liable and be tried only regarding criminal offence regarding which he or she is being extradited, except for the cases provide for in Section 695, Paragraph two of this Law.

(2) A person to be extradited shall certify his or her consent for the extradition, and the waiving of his of her rights to be held criminally liable and tried only regarding the criminal offences regarding which he or she is being extradited, to a public prosecutor in the presence of an advocate, and a protocol shall be written regarding such certification.

(3) If a person to be extradited is a Latvian citizen, such person has the right to waive the rights that guarantee that the Latvian citizen, after the conviction thereof in a European Union Member State, be transferred back to Latvia for the serving of an imposed sentence.

(4) The course of the term of the execution of a European arrest decision in relation to a person who has criminal-procedural immunity shall commence from the moment when such person loses such immunity in accordance with the procedures specified by law.

(5) Latvia shall accept European arrest decisions for execution in the Latvian or English language.

Section 716. Examination in relation to the Extradition of a Person to a European Union Member State

(1) Having received a European arrest decision, the Office of the Prosecutor General shall organise an examination thereof.

(2) A public prosecutor shall conduct an examination in accordance with the procedures specified in Chapter 704 of this Law by ascertaining whether grounds exist for the extradition of a person and whether the reasons specified in Chapter 714 of this Law exist for a refusal of the extradition of the person.

(3) If the Office of the Prosecutor General simultaneously receives an extradition request from third states and a European arrest decision from European Union Member States in relation to one and the same person, the examination of such decision shall be combined in a single proceedings, if a decision has not been taken regarding the extradition of the person or regarding a refusal to extradite the person. In adjudicating simultaneously received requests regarding the extradition of a person, and in deciding a matter regarding which state is to be given privilege, the seriousness of the offence, the place and time of the committing thereof, and the order of the receipt of the requests shall be taken into account.

Section 717. Arrest and Detention of a Person to be Extradited to a European Union Member State

(1) The arrest of a person for the purpose of extradition shall take place in accordance with the procedures specified in Chapter 699 of this Law, if a European arrest decision has been taken regarding such person or if a report has been posted in the international search system regarding the existence of such decision.

(2) If circumstances are not known that exclude the admissibility of the extradition of a person, the executor of an examination shall submit a proposal regarding the application of an extradition detention and a European arrest decision to the district (city) court in the territory of operation of which the person was arrested or the Office of the Prosecutor General is located.

(3) An extradition detention shall be applied in accordance with the procedures specified in Chapter 701 of this Law for 80 days from the day of the arrest of a person. In exceptional cases, a court may extend such term one more time by 30 days. The Office of the Prosecutor General shall inform the competent institution of the state that took a European arrest decision regarding the reason for the delay in the execution of the decision.

Section 718. Temporary Operations up to the Taking of a Decision

If a European Union Member State has taken a European arrest decision in order to ensure the criminal prosecution of a person, the Office of the Prosecutor General shall, before a decision is taken regarding the extradition or non-extradition of the person and on the basis of a request of the competent judicial authority of the Member State, examine the person, with the participation of a person chosen by the competent judicial authority of the Member State, or shall agree to the temporary relocation of the person, determining the time of return.

Section 719. Extradition to a European Union Member State of a Person Extradited by a Foreign State

(1) An extradited person may be transferred further to another European Union Member State in cases where the state, in extraditing the person, had agreed to the further extradition of such person.

(2) If a European arrest decision has been received in relation to a person who has been extradited to Latvia by another state without giving consent for the further extradition of the person, the Office of the Prosecutor General shall turn to the state that extradited the person in order to receive consent for the further extradition of the person to a European Union Member State.

Section 720. Decision regarding the Extradition of a Person to a European Union Member State

(1) The Office of the Prosecutor General shall take a decision, within a term of 10 days from the day of the application of a security measure, regarding the extradition or non-extradition of a person to a foreign state. The decision regarding the extradition of a person shall not be subject to appeal, if the person has agreed to the extradition.

(2) If a person to be extradited does not agree to the extradition, the Office of the Prosecutor General may appeal the decision regarding extradition to the Supreme Court within a term of 10 days from the day of the receipt thereof.

(3) The Supreme Court shall adjudicate a complaint regarding a decision of the Office of the Prosecutor General in accordance with the procedures specified in Chapters 706 and 707 of this Law, and send the taken decision to the Office of the Prosecutor General within a term of 20 days from the day of the receipt of the complaint.

Section 721. Execution of a Decision regarding the Extradition of a Person to a European Union Member State

(1) The Office of the Prosecutor General shall immediately send to the Ministry of the Interior for execution a decision that has entered into effect regarding the extradition of a person.

(2) The execution of a decision for the extradition of a person shall take place in compliance with the conditions provided for in Chapter 710, Paragraphs one and two of this Law.

(3) After the taking of a decision regarding the extradition of a person, the Office of the Prosecutor General may defer the extradition of the relevant person to a European Union Member State for the completion of criminal proceedings commenced in Latvia or the serving of an imposed sentence, or due to serious humanitarian reasons, if there is a justified reason for thinking that extradition in the concrete situation would clearly endanger the life or health of the person. The Office of the Prosecutor General shall inform the competent judicial authority of the European Union Member State regarding the decision to defer extradition, and shall come to an agreement regarding another time for the extradition of the person.

(4) If a person has not been taken over within a term of 10 days from the day when a decision was taken regarding the extradition thereof, or from the day regarding which an agreement was made with the competent judicial authority of a European Union Member State, a person shall be released from detention.

(5) If a decision has been taken regarding the non-extradition of a person, the Office of the Prosecutor General shall inform the competent judicial authority of a Member State regarding such decision.

Section 722. Transfer of Objects to a European Union Member State

(1) The Office of the Prosecutor General shall seize and transfer the following objects to a European Union Member State on the basis of a request of the Member State or on the basis of the initiative of such Office of the Prosecutor General.

1) objects that are necessary as material evidence;

2) objects that a person to be extradited has acquired as a result of an offence.

(2) Objects that are necessary as material evidence shall be transferred even if a European arrest decision may not be fulfilled due to the death or escape of a person to be extradited.

(3) If objects are necessary for the completion of criminal proceedings commenced in Latvia, a later transfer time may be specified for such objects. In transferring objects, the Office of the Prosecutor General may request that such objects be returned.

Division Fifteen
Takeover of Criminal Proceedings

Chapter 67
Takeover in Latvia of Criminal Proceedings Commenced in a Foreign State

Section 723. Content and Condition of the Takeover of Criminal Proceedings

The takeover of criminal proceedings is the continuation in Latvia of criminal proceedings commenced in a foreign state, on the basis of a request of the foreign state or with the consent thereof, if such continuation is required by procedural interests and the offence is punishable in accordance with the Criminal Law of Latvia.

Section 724. Competent Institution in the Takeover of Criminal Proceedings

(1) In the pre-trial investigation stage, the Office of the Prosecutor General shall adjudicate and decide requests regarding the takeover of criminal proceedings.

(2) In the trial stage, the Ministry of Justice shall examine and decide requests regarding the takeover of criminal proceedings.

Section 725. Grounds for the Takeover of Criminal Proceedings

(1) The following are grounds for the takeover of criminal proceedings:

1) a request submitted by a foreign state regarding the takeover of criminal proceedings (hereinafter also - request for the takeover of criminal proceedings), and the consent of Latvia to take over such criminal proceedings;

2) a request submitted by Latvia regarding the transfer of criminal proceedings (hereinafter also - request for the transfer of criminal proceedings), and the consent of a foreign state to transfer such criminal proceedings;

(2) If an offence in connection with which the takeover of criminal proceedings is being requested (hereinafter in Chapters 67 and 68 - offence) is not criminally punishable in Latvia, but is punishable in accordance with other laws the submitter of the request shall immediately be informed thereof, without taking over the criminal proceedings. The receipt of consent is a basis for the continuation of proceedings in accordance with the procedures provide for in Latvian law.

Section 726. Reasons for the Rejection of a Request for the Takeover of Criminal Proceedings

(1) The takeover of criminal proceedings shall not be admissible, if:

1) the offence in connection with which the takeover of criminal proceedings is being requested is not considered criminal in accordance with the Criminal Law of Latvia;

2) a limitation period of criminal liability has come into effect, or the six months by which a limitation period has been extended have passed, if the offence comes into the criminal-legal jurisdiction of Latvia only in accordance with a request regarding the takeover of criminal proceedings;

3) evidence has not been obtained that provides a basis for holding a person suspect or accusing a person in the committing of an offence;

4) a final adjudication has been rendered in Latvia regarding the same offence;

5) a request regarding a takeover of criminal proceedings in which a judgment of conviction has entered into effect has been submitted by a state with which Latvia does not have an agreement regarding mutual recognition and execution of court judgments rendered in criminal proceedings, and, in addition, such state has the opportunity to execute an imposed penalty itself.

(2) A request for the takeover of criminal proceedings may not be fulfilled, if:

1) such request is not sufficiently justified;

2) the person who is suspected or is accused in the committing of the offence only resides in Latvia occasionally;

3) there are grounds for believing that the offence is political or expressly military, or the request has been submitted in order to prosecute a person due to his or her race, religious affiliation, nationality, gender, or political views;

4) the offence was not committed in the territory of the state that submitted the request;

5) the takeover of criminal proceedings would be in contradiction to the international obligations of Latvia toward another state;

6) the continuation of proceedings does not comply with the principles of the judicial system of Latvia;

(3) Latvia does not have an agreement regarding the takeover of criminal proceedings with the state of the submitter of the request.

Section 727. Terms for the Adjudication of a Request for the Takeover of Criminal Proceedings

(1) A request for the takeover of criminal proceedings shall be decided within a term of 10 days, and, if the amount of material is particularly large, such request shall be decided within a term of 30 days.

(2) In particular cases where the translation of documents is necessary, a request for the takeover of criminal proceedings shall be decided after the receipt of the translation within the terms provided for in Paragraph one of this Chapter.

(3) If additional information is necessary for deciding, competent institutions shall request such additional information from the state of the submitter of the request. After the receipt of additional information, a matter shall be decided within the terms provided for in Paragraph one of this Chapter.

(4) If proceedings regarding an offence may be commenced in Latvia only on the basis of a complaint of a victim, but such complaint has not been attached to received materials, a competent institution shall immediately inform the victim and take a decision after the receipt of the consent or refusal of the victim. If the victim has not provided an answer within a term of 30 days, proceedings may be terminated.

Section 728. Deciding of a Request for the Takeover of Criminal Proceedings

(1) Having adjudicated a request of a foreign state, necessary documents, and additional information, if such information was requested, a competent institution shall take one of the following decision:

1) regarding the takeover of criminal proceedings and the transfer thereof for the performance of proceedings;

2) regarding the rejection of a request for the takeover of criminal proceedings.

(2) The decision referred to in Paragraph one of this Chapter shall be immediately sent, together with a translation thereof, to the state that submitted the request.

Section 729. Request of Latvia regarding the Transfer of Criminal Proceedings

(1) If criminal proceedings are taking place in another state simultaneously with criminal proceedings in Latvia regarding the same offence, competent institutions may submit to the foreign state a request regarding the transfer of the criminal proceedings to Latvia, if such request complies with the interests of court proceedings and promotes the course of criminal proceedings.

(2) A request shall not be submitted if reasons exist that exclude the takeover of criminal proceedings.

Section 730. Procedures for the Takeover of Criminal Proceedings

(1) If prosecution has been pursued against a person in another state, and the relevant person has been transferred to a court or convicted, the competent institution shall transfer criminal proceedings for continuation to the Office of the Prosecutor according to the domicile, or place of residence, in Latvia of such person.

(2) A public prosecutor shall decide, within a term of 10 days, whether evidence is sufficient for the holding of a person criminally liable in accordance with the Criminal Law of Latvia, and shall pursue prosecution or transfer criminal proceedings for the continuation thereof from the investigative stage.

(3) If a prosecution has not been pursued in another state against a person, criminal proceedings shall be continued from the investigative stage.

(4) Subsequent criminal proceedings shall take place in accordance with general procedures.

Section 731. Withdrawal of a Takeover of Criminal Proceedings

(1) A person directing the proceedings shall submit a reasoned proposal regarding a withdrawal of a takeover of criminal proceedings to the same competent institution that took a decision regarding a takeover of criminal proceedings, if reasons are discerned that exclude a takeover of criminal proceedings.

(2) A competent institution shall decide within a term of 10 days regarding a continuation of criminal proceedings in Latvia or regarding a withdrawal of a takeover of criminal proceedings.

(3) In withdrawing consent for a takeover of criminal proceedings, a competent institution shall inform a person directing the proceedings thereof and assign him or her to revoke all imposed security measures, and to decide actions with material evidence.

(4) A competent institution shall immediately inform the state that submitted a request regarding a withdrawal of a takeover of criminal proceedings, and shall send criminal-case materials to such state.

(5) If a takeover of criminal proceedings has been withdrawn in accordance with the political nature or expressly military nature of criminal proceedings, or because a person has been prosecuted due to his or her race, religious affiliation, nationality, gender, or political views, evidence obtained in Latvia may be not transferred to the state that submitted a request. In other cases, evidence shall not be transferred if investigative actions are not able to be performed on the basis of a request of a foreign state regarding assistance in criminal proceedings.

Section 732. Temporary Detention before the Receipt of a Request for a Takeover of Criminal Proceedings

(1) If a foreign state notifies regarding the intention thereof to submit a request for taking over criminal proceedings, and requests the application of temporary detention before the receipt thereof, a competent institution shall turn to the investigating judge with a proposal to detain a person until the matter is decided regarding the takeover of criminal proceedings, if all of the following conditions exist:

1) the request indicates that there is a decision issued by the submitting state regarding the application of detention;

2) the Criminal Law of Latvia provides for a penalty of deprivation of liberty regarding the relevant offence;

3) there are grounds for believing that the suspect or accuse will evade participation in criminal proceedings or will hide evidence.

(2) A person detained in accordance with the procedures specified in Paragraph one of this Chapter may be released, if:

1) a request for a takeover of criminal proceedings has not been received within a term of 10 days from the day of the application of an arrest or temporary detention;

2) documents to be attached have not been received within a term of 15 days from the day of the receipt of the request;

3) a decision has not been taken regarding the application of a security measure – detention in the taken-over criminal proceedings within a term of 40 days from the day of the application of an arrest or temporary detention;

4) a decision has been taken to reject the request regarding the taking over of criminal proceedings;

5) the takeover of criminal proceedings has been withdrawn;

6) circumstances have become known that exclude the opportunity to hold the person in detention.

Section 733. Temporary Detention after the Receipt of a Request for a Takeover of Criminal Proceedings

(1) If a request regarding a takeover of criminal proceedings, and the materials attached to such request, provide a basis for believing that the person who is suspected, or is accused, in the committing of an offence will evade an investigation or court, or will hinder the ascertaining of the truth in the case, the competent institution shall request the investigating judge to apply temporary detention.

(2) A person who has been detained in accordance with this Chapter may be released from temporary detention, if:

1) a request to takeover criminal proceedings has not been decided within a term of 40 days from the day of the application of an arrest or temporary detention;

2) a decision has not been taken regarding the application of a security measure – detention in the taken-over criminal proceedings within a term of 40 days from the day of the application of an arrest or temporary detention;

3) a decision has been taken to reject the request regarding the taking over of criminal proceedings;

4) the takeover of criminal proceedings has been withdrawn;

5) circumstances have become known that exclude the opportunity to hold the person in detention.

Section 734. Arrest in order to Decide a Matter regarding Temporary Detention

(1) If a competent institution considers the application of temporary detention as necessary, such institution may assign the police to arrest a person for a term up to 12:00 PM of the day after the next for conveyance to the investigating judge.

(2) A police employee shall write a protocol regarding an arrest of a person, which shall indicate the precise time and place of the arrest, as well as reflect the explaining of the rights of the arrested person. The arresting person and the arrested person, as well as an advocate, if he or she participates, shall sign the protocol.

(3) If temporary arrest is not applied to an arrested person at the time indicated in Paragraph one of this Chapter, such person may be released.

Section 735. Procedures for the Application of Temporary Detention

(1) A competent institution shall submit a proposal regarding temporary detention and the justifying materials thereof to an investigating judge according to the location thereof, or to the investigating judge in the territory of operation of whom the person was arrested.

(2) A judge shall decide regarding the application of temporary detention in a court session in which a representative of a competent institution, a public prosecutor, and the person to be detained participate.

(3) Having heard a representative of a competent institution, a public prosecutor, a person to be detained and his or her advocate, if he or she participates, a judge shall take a reasoned decision.

(4) A competent institution shall inform the submitter of a request regarding the application of temporary detention and regarding release from temporary detention.

Section 736. Rights of a Person Suspected or Accused of an Offence

(1) If a person who is suspected or accused in a foreign state regarding the committing of an offence resides in Latvia, and such offence is under the criminal jurisdiction of Latvia only because the foreign state requests a takeover of criminal proceedings, a competent institution shall acquaint the relevant person, before the taking of a decision, with the received request, and shall ascertain whether such person wishes to participate in the criminal proceedings in the state that submitted the request. The views of the person may be taken into account in deciding regarding the request for the takeover of criminal proceedings, but such views are not binding.

(2) A person shall acquired the same rights at the moment of a takeover of criminal proceedings as a suspect or accused in Latvia

Section 737. Application of other Compulsory Measures up to a Takeover of Criminal Proceedings

(1) From the moment of the receipt of a request for a takeover of criminal proceedings, a competent institution may apply any procedural compulsory measure as

such institution would be permitted to use also without the receipt of a request of a foreign state, if the offence were under the jurisdiction of Latvia.

(2) All compulsory measures may be revoked, if a decision is taken regarding the rejection of a request for a takeover of criminal proceedings, or if a takeover is withdrawn.

Section 738. Inclusion of Time Spent in Detention

(1) The term of temporary detention shall be counted form the moment of arrest.

(2) The term that a person has spent in detention during criminal proceedings taking place in another state shall not be included in the term of detention in Latvia, but shall be included in the term of a sentence.

(3) If a person is in detention during the takeover of criminal proceedings, the term of detention shall be counted from the moment of the crossing of the state border of the Republic of Latvia.

(4) The entire term that a person has spent in temporary detention in Latvia shall be included in the term of a security measure.

Section 739. Boundary of Criminal Liability and Punishment in Taken-over Criminal Proceedings

(1) Only the activities that are criminal in accordance with the laws of both state shall be incriminating for an accused.

(2) An imposed penalty shall not be larger than the penalty provided for in the law of the state that submitted a request, if the offence is under the jurisdiction of Latvia only on the basis of the request for a takeover of criminal proceedings.

Section 740. Duty to Inform a State that Submitted a Request

(1) A person directing the proceedings shall inform the competent institution that decided regarding a request for a takeover of criminal proceedings regarding the final decision taken in the criminal proceedings that were taken over. In taking over proceedings, such institution may assign the person directing the proceedings to inform such institution regarding other taken decisions, if such necessity arises from the international obligations of Latvia.

(2) A competent institution shall inform the state that submitted a request regarding a taken final decision, as well as regarding other procedural actions, if contracts or mutual agreements provide for such informing.

Chapter 68
Transfer of Criminal Proceedings Commenced in Latvia

Section 741. Content and Condition of a Transfer of Criminal Proceedings

(1) Transfer of criminal proceedings is the suspension thereof in Latvia and the continuation thereof in a foreign state, if there are grounds for holding a person suspect,

or prosecuting a person, for the committing of an offence, but the successful and timely performance of the criminal proceedings in Latvia is not possible or hindered, and, in addition, transfer to the foreign state promotes such impossibility or hindrance.

(2) The transfer of criminal proceedings in which a judgment of conviction has entered into effect shall be admissible only if the judgment may not be executed in Latvia, and the foreign state in which the convicted person resides does not accept a judgment of another state for execution.

Section 742. Competent Institutions

(1) The Office of the Prosecutor General shall submit a request to a foreign state regarding the transfer of criminal proceedings during pre-trial proceedings.

(2) The Ministry of Justice shall submit a request to a foreign state regarding the transfer of criminal proceeding during a trial or after the entering into effect of a judgment.

Section 743. Grounds for the Transfer of Criminal Proceedings

The following are grounds for the transfer of criminal proceedings commenced in Latvia to a foreign state:

1) a request submitted by Latvia for taking over criminal proceedings, and the consent of a foreign state to takeover such criminal proceedings;

2) a request submitted by a foreign state for the transfer of criminal proceedings, and the consent of Latvia to transfer criminal proceedings taking place in Latvia for the continuation thereof in the foreign state.

Section 744. Reasons for a Transfer of Criminal Proceedings

(1) A performer of proceeding shall consider the matter regarding the initiation of the transfer of criminal proceedings, if the conditions referred to in Chapter 741 of this Law exist, and:

1) the suspect, accused, or convicted person is a foreign citizen and permanently lives or resides in his or her state of citizenship;

2) the suspect, accused, or convicted person is located in a foreign state and his or her extradition is not possible or has been refused;

3) criminal proceedings are being performed in a foreign state against the same person and regarding the same criminal offence, as well as other offences;

4) the most important evidence or the majority of witnesses are located in a foreign state;

5) the ensuring of the presence of the accused in criminal proceedings in Latvia is not possible;

6) it is or will not be possible to execute a sentence in Latvia.

(2) Having determined the conditions and reasons for the transfer of criminal proceedings, a person directing the proceedings shall submit to the competent institution a proposal to send a request for the takeover of criminal proceedings.

Section 745. Request for a Takeover of Criminal Proceedings

(1) In addition to that which is indicated in Chapter 678 of this Law, a request for a takeover of criminal proceedings shall substantiate that the conditions and reasons for a transfer of criminal proceedings exist, and that the transfer complies with the interests of the criminal proceedings.

(2) All the procedural documents, or copies thereof, existing in a criminal case to be transferred, as well as the text of the Sections of the Criminal Law, with a translation thereof, that determine liability regarding the criminal offence indicated in the decision regarding the holding of a person suspect or the holding of a person criminally liable shall be attached to a request, if such attachment is provided for in a treaty or in the agreement of competent institutions.

(3) If a temporary detention request has been submitted in a foreign state, a request for a takeover of criminal proceeding shall be submitted in as short a time as possible, but not later than on the fifteenth day after the detention of a person.

(4) If a request for a takeover of criminal proceedings has been submitted without attached materials, such materials shall be submitted in as short as time as possible, but if temporary detention has been applied to a person, such materials shall be submitted not later than on the twelfth day after the submission of the request.

Section 746. Consequences of the Submission of a Request for a Takeover of Criminal Proceedings

(1) A competent institution shall inform the competent institution of a foreign state regarding each procedural action performed after the submission of a request for a takeover of criminal proceedings, and shall send copies of the relevant procedural documents.

(2) Latvian institutions shall not perform procedural actions in transferred criminal proceedings, if:

1) a report of a foreign state has been received regarding a takeover of criminal proceedings;

2) Latvia has given consent for a transfer to a foreign state of criminal proceedings taking place in Latvia.

(3) Proceedings may be renewed in Latvia, if a report has been received:

1) regarding a retraction of a takeover;

2) that proceedings regarding an offence in a foreign state have been terminated.

Section 747. Detention

(1) If there are grounds for believing that a person has attempted to evade criminal proceedings in the state that received a request, a competent institution shall send a request regarding temporary detention up to the submission of a request for a takeover of criminal proceedings.

(2) If a security measure – detention has been applied to a person in Latvia, the sending of a request for a takeover of criminal proceeding shall not be grounds for the

revocation thereof. In such case, a performer of proceeding shall continue the necessary procedural actions up to the receipt of an answer of the state that received the request.

(3) If criminal proceedings have been renewed after the transfer thereof, the term of detention shall only include the term that a person spent in detention in Latvia, and the entire term of detention related to such offence shall be included in the term of a penalty.

Section 748. Transfer of Criminal Proceedings against a Latvian Citizen

The transfer of criminal proceedings related to an offence in the committing of which a Latvian citizen is being held suspect or prosecuted shall be admissible, if:

1) the relevant person is located outside of Latvia and the extradition thereof has been refused or deferred for a lengthy term;

2) Latvia has a treaty with a foreign state regarding a transfer of criminal proceedings;

3) a foreign state with which a treaty regarding a transfer of criminal proceedings does not exist has provided a sufficient bail that the boundaries of a penalty and criminal liability specified in Section 739 of this Law will be complied with.

Division Sixteen
Takeover of a Convicted Person for the Serving of a Sentence

Chapter 69
Takeover of a Person Convicted in a Foreign State for the Serving of a Sentence in Latvia

Section 749. Grounds for the Takeover of a Person for the Serving of a Sentence

(1) The following are grounds for a person convicted in a foreign state to whom a sentence related to deprivation of liberty has been applied to be taken over for the serving of the sentence in Latvia:

1) a request of a competent institution of Latvia to transfer the convicted person (hereinafter also - a request for the takeover of a person), and the consent of a competent institution of a foreign state for such transfer;

2) a request of a competent institution of a foreign state to takeover a convicted person, and the consent of a competent institution of Latvia for such takeover.

(2) A competent institution shall perform the operations provided for in this Chapter, if a request of a convicted person or a representative thereof, or the information, or a request, of a competent institution of a foreign state has been received, or also on the basis of the initiative thereof.

Section 750. Competent Institution

The Office of the Prosecutor General is the competent institution that receives and sends the consent to a request regarding the takeover of a person convicted in a foreign state for the serving of a sentence in Latvia.

Section 751. Conditions for the Takeover of a Person for the Serving of a Sentence

(1) A person convicted in a foreign state may be taken over for the serving of a sentence in Latvia, if:

1) the convicted person is a Latvian citizen or his or her permanent place of residence is in Latvia;

2) criminal proceedings have been completed with a final adjudication;

3) at the moment of the receipt of a request, the convicted person has at least six months until the end of the serving of the sentence;

4) the offence regarding which the sentence has been specified is considered criminal on the basis of the Criminal Law of Latvia;

5) the convicted person agrees to such takeover.

(2) The consent of a convicted person shall not be necessary, if there are grounds for believing that, taking into account the age, or physical or mental condition, of such person, takeover for the serving of a sentence is necessary, and the representative of the convicted person agrees to such takeover.

(3) In exceptional cases, a person may also be taken over for the serving of a sentence if the term for the serving of a sentence is less than is specified in Paragraph one, Clause 3 of this Section.

Section 752. Examination of a Request for the Takeover of a Person

(1) After a competent institution has received a request of a convicted person, the representative thereof, or a foreign state to takeover such person for the serving of a sentence in Latvia, such institution shall commence an examination of the received request.

(2) If received materials do not include sufficient information in order to decide the matter regarding the takeover of a convicted person, a competent institution may request addition information from a foreign state.

Section 753. Completion of an Examination

(1) A competent institution shall adjudicate a request within a term of 10 days after the receipt thereof or the receipt of requested additional information, and shall take one of the following decisions:

1) to submit a request regarding the transfer of a convicted person for the serving of a sentence in Latvia;

2) to refuse to submit a request regarding the transfer of a convicted person;

3) to satisfy the request of a foreign state and takeover a convicted person for the serving of a sentence in Latvia;

4) to reject the request of a foreign state.

(2) The Prosecutor General may extend the term of adjudication, and the person directing the proceedings shall be informed regarding such extension.

(3) The person that submitted a request regarding the takeover of a convicted person for the serving of a sentence, and the foreign state in which such person was convicted, shall immediately be informed regarding a taken decision.

(4) A decision shall not be subject to appeal.

Section 754. Request regarding the Transfer of a Person

A request regarding the transfer of a person for the serving of a sentence shall be written in compliance with the requirements specified in Section 678 of this Law, and the following shall be attached to such request:

1) a document or report regarding the fact that the relevant person is a Latvian citizen or that his or her place of residence is in Latvia, if such document has not already been mutually submitted;

2) the text of the Section of the Criminal Law of Latvia in accordance with which the offence regarding which the sentence has been specified for the person is considered criminal in Latvia.

Section 755. Determination of the Part of the Sentence to be Served in Latvia

(1) A request regarding the continuation of the serving of a sentence specified in a foreign state and the part of the sentence to be served in Latvia shall be taken, within a term of 10 days after the receipt of a proposal of a competent institution, by a court of the same level, according to the location of the convicted person or competent institution, and in the same composition as the level of the court and the composition that would adjudicate the offence if the criminal proceedings were to take place regarding such offence in Latvia.

(2) A court shall adjudicate a proposal in accordance with the procedures specified in Section 61 of this Law. A convicted person may retain an advocate for the receipt of legal assistance.

(3) The following shall be determined by a court in a decision:

1) the continuation of the serving of a sentence and the sentence to be served;

2) the deduction of the term spent in detention or a prison;

3) the type of prison, in commencing the execution of a sentence; such type of prison shall be determined on the basis of the same criteria as in a case where a sentence regarding the offence were specified in criminal proceedings taking place in Latvia;

4) the executable part of an additional sentence, if the Criminal Law of Latvia provides for such additional sentence.

(4) A court decision shall not be subject to appeal.

Section 756. Continuation of the Serving of a Sentence

(1) The serving of a sentence specified by a court of a foreign state shall be continued without the modification of the type and amount of the sentence.

(2) If the type and amount of a sentence specified by a court of a foreign state does not comply with a sentence specified in the Criminal Law of Latvia regarding the same offence, a court shall modify such type and amount in accordance with the sentence that is provided for by the Criminal Law of Latvia regarding the same criminal offence, complying with the following conditions:

1) the type and amount of the sentence shall not exceed the maximum sentence specified in the Criminal Law of Latvia regarding the same offence;

2) the type and amount of the sentence shall comply as much as possible with that which is specified in the judgment;

3) the minimal boundary of a sentence specified in the Criminal Law of Latvia shall not have any significance.

(3) If a person has not been penalised with a criminal sentence in a foreign state due to mental dysfunctions or mental disability, but other measures related to deprivation of liberty have been applied to such person, a court shall decide regarding the determination of compulsory measures of a medical nature for such person.

Section 757. Takeover of a Convicted Person

(1) In receiving the consent of a foreign state to transfer a convicted person for the serving of a sentence in Latvia, a competent institution shall assign the Ministry of the Interior, co-ordinating with the relevant foreign state, to take over and place the person in an institution for the execution of the sentence.

(2) If a matter regarding the continuation of a sentence has not been decided before the conveyance of a convicted person to Latvia, such person shall be placed in an investigative prison after takeover until the matter is decided regarding the part of the sentence to be served.

Section 758. Legal Consequences Caused by the Takeover of a Person for the Serving of a Sentence

(1) The execution of a specified sentence shall take place in accordance with the same procedures as the execution of a penalty imposed in criminal proceedings taking place in Latvia.

(2) The clemency and amnesty acts taken in Latvia, the conditions of early release, and the decision of the relevant foreign state regarding the reduction of a sentence, amnesty, or clemency all apply to a convicted person.

(3) Only the state wherein a judgment was rendered has the right to re-examine the judgment.

(4) The execution of a sentence shall be interrupted, and a person shall be released, if the state in which the person was convicted informs Latvia regarding the revocation of the judgment of conviction, except for the cases provided for in this Part of the Law where a request regarding the application of temporary detention is received together with the information.

(5) A competent organisation shall organise the execution of a report of a foreign state in relation to decisions or facts that influence the further serving of a sentence. If unmistakable information has been received regarding the immediate termination, or end date, of the serving of a sentence, such information shall be transferred to the institution of the execution of the sentence. In other cases, such information shall be transferred for adjudication to the court that decides matters related to the execution of the judgment.

Section 759. Application in Criminal Proceedings of Latvia of a Valid Judgment of a Foreign State

With a judgment of a court of Latvia, the sentence to be executed by a person who has been transferred on the basis of a request of a foreign state for the serving of a sentence in Latvia shall be specified in accordance with the procedures provided for in the Criminal Law of Latvia for the determination of a sentence after several judgments.

Section 760. Takeover of an Escaped Person Convicted in a Foreign State

(1) If a Latvian citizen has been convicted in a foreign state, escaped from the serving of a sentence in such foreign state, and arrived in Latvia, and such foreign state has requested the takeover of such person and the ensuring of the serving of a sentence in Latvia, the consent of the convicted person shall not be necessary.

(2) Before the receipt or deciding of a request, a competent institution may submit a proposal to an investigating judge to apply temporary detention to the person referred to in Paragraph one of this Section, if:

1) the demand of a foreign state to apply temporary detention has been received up to the receipt of a request of a foreign state or the taking of a decision in such case;

2) the demand of a foreign state includes information regarding the convicted person, refers to the facts on the basis of which a sentence has been specified, indicates the types and amount of the sentence and the term for the commencement of the serving of the sentence.

(3) In order to ensure the arrival of a person in court, a competent institution may assign the police to arrest such person and convey him or her to the court.

(4) A person shall be released from temporary detention, if:

1) within a term of 18 days from the day of the arrest of such person, a foreign state has not submitted a request to takeover such person and to ensure the serving in Latvia of the sentence imposed upon him or her;

2) a request of a foreign state to takeover the convicted person has been rejected with substantiation.

(5) The request referred to in this Section of a foreign state to takeover a person and ensure the serving in Latvia of the sentence imposed on such person may only be rejected if none of the conditions referred to in Section 751 of this Law exist.

Section 761. Takeover of a Person Convicted in a Foreign State and Subjected to Expulsion

A competent institution may agree to takeover a person convicted in a foreign state for the serving of a sentence in Latvia without the consent of such person, if:

1) a judgment or administrative decision includes an order regarding the expulsion or deportation of the convicted person from such foreign state after the releasing of the person from prison;

2) the views of the convicted person regarding the transfer thereof, and a copy of the order for expulsion or deportation, are attached to the request of the foreign state;

3) other conditions exist that allow for the takeover of a person.

Section 762. Legal Consequences of the Takeover of a Person Subjected to Expulsion

(1) A person who has been taken over for the serving of a sentence in Latvia, without the consent thereof, in accordance with the conditions of Section 761 of this Law shall not be held criminally liable, tried, or transferred for the serving of a sentence regarding other offences that were committed before the takeover of such person, except for the offences regarding which the judgment to be executed was taken.

(2) The condition of Paragraph one of this Section do not apply to cases where:

1) permission of the foreign state that imposed a sentence has been received for criminal prosecution, litigation, or the execution of a sentence;

2) a person has not left Latvia within a term of 45 days after being released;

3) a person has left Latvia and then returned to Latvia.

Section 763. Information regarding the Serving of a Sentence

(1) A competent institution shall inform the foreign state wherein a person was convicted:

1) regarding the termination of the serving of a sentence;

2) regarding the escape of the convicted person from prison;

3) if such foreign state has requested a particular report.

(2) The institution that is responsible regarding the execution of a sentence shall immediately inform a competent institution regarding that which is referred to in Paragraph one of this Section.

Chapter 70
Transfer of a Person Convicted in Latvia for the Serving of a Sentence in a Foreign State

Section 764. Grounds for the Transfer of a Convicted Person for the Serving of a Sentence

(1) The following are grounds for the transfer to a foreign state for the serving of a sentence of a person convicted in Latvia with deprivation of liberty:

1) a request of a competent institution of a foreign state to takeover a convicted person, and the consent of a competent institution of Latvia for such takeover.

2) a request of a competent institution of Latvia to takeover a convicted person, and the consent of a competent institution of a foreign state for such takeover.

(2) A competent institution shall perform the operations provided for in this Chapter, if a request of a convicted person or a representative thereof, or the information, or a request, of a competent institution of a foreign state has been received, or also on the basis of the initiative thereof.

Section 765. Competent Institution

The Office of the Prosecutor General shall receive and send a request regarding the transfer of a person convicted in Latvia to a foreign state for the serving of a sentence, and the consent for such transfer.

Section 766. Conditions for the Takeover of a Person for the Serving of a Sentence

(1) The transfer of a convicted person for the serving of a sentence in a foreign state shall be admissible, if:

1) the convicted person is a citizen of the state wherein the sentence will be served;

2) a court judgment has entered into effect;

3) at the moment of the receipt of a request, the convicted person has at least six month left before the end of the serving of the sentence;

4) the offence regarding which the sentence has been specified is considered criminal on the basis of the laws of the foreign state;

5) the convicted person has expressed a wish to be transferred, or has expressed consent for the transfer.

(2) Competent institutions of Latvia and a foreign state may agree regarding the transfer of a convicted person without the consent of such person, if there are grounds for believing that, taking into account the age or physical or mental condition of such person, transfer for the serving of a sentence is necessary, and the representative of the convicted person agrees to such transfer.

(3) A competent institution may transfer for the serving of a sentence in a foreign state a convicted person who is not a citizen of such foreign state, if there are grounds for believing that the permanent place of residence of the person is located in such foreign state, and the transfer of the person will promote fairness and the social rehabilitation of such person.

(4) A competent institution may transfer to a foreign state for the application of similar medical treatment measures a person for whom, due to his or her mental dysfunctions or mental disability, medical treatment in a specialised psychiatric hospital with a security guard, or medical treatment in prisons appropriate for such person, has been specified.

(5) In exceptional cases, a person may also be taken over for the serving of a sentence if the term for the serving of a sentence is less than is specified in Paragraph one, Clause 3 of this Section.

Section 767. Informing of Convicted Persons

The administration of a prison shall, within a term of 10 days after such administration received an order of a judge regarding the transfer of a judgment for execution, inform a citizen of a foreign state convicted in Latvia, or a person whose permanent place of residence is not in Latvia, regarding the rights of such person to express a wish to be transferred for the serving of a sentence in the state of his or her citizenship or permanent place of residence. The legal consequences of a transfer shall be explained to such convicted person.

Section 768. Request of a Person regarding Transfer for the Serving of a Sentence

(1) A convicted person shall submit in writing to a competent institution his or her request regarding transfer for the serving of a sentence in a foreign state.

(2) A competent institution shall immediately inform a convicted person in writing regarding the sending of a report to a foreign state and regarding the results of the adjudication of a request.

Section 769. Receipt of the Consent of a Convicted Person

(1) If a request of a foreign state or the representative of a convicted person has been received regarding the transfer of a person, and the wishes of the convicted person to be transferred, or his or her consent to a transfer, have not been attached in writing to such request, a competent institution shall, within a term of 10 days, familiarise the convicted person with such request, explain the legal consequences of transfer to him or her, and invite him or her to express his or her attitude toward the received request.

(2) The consent or refusal of a person shall be drawn up in writing, and a convicted person shall certify such consent or refusal with the signature thereof.

(3) If a foreign state has expressed such a wish, a competent institution shall provide the opportunity for a representative of the foreign state, regarding whom both states have agreed, to examine the circumstances in which a convicted person gave his or her consent.

Section 770. Notification of a Foreign State

(1) If a request of a convicted person, or the consent thereof to a request submitted by his or her representative, has been received regarding the transfer of such person for the serving of a sentence in a foreign state, a competent institution shall notify the foreign state regarding such request immediately, but not later than within a term of 10 days.

(2) Information for a foreign state shall indicate the following:

1) the given name, surname, place and date of birth of the convicted person;

2) the address of the convicted person in such foreign state, if such address exists;

3) the offence regarding which a sentence has been specified;

4) the type and amount of the sentence, as well as the time when the serving of the sentence was commenced.

(3) A competent institution may send to a foreign state, simultaneously with information, a request to take over a person for the serving of a sentence in such foreign state, if facts that would not allow for the transfer of the person have not been determined in the initial materials. In such case, a request shall indicate that such request is in effect with the condition that such facts have also not been determined in the foreign state.

Section 771. Examination of a Request regarding the Transfer of a Person

(1) After a request has been received to transfer a convicted person for the serving of a sentence in a foreign state, a competent institution shall examine whether conditions exist for the transfer of the person.

(2) If received materials do not include sufficient information in order to decide the matter regarding a takeover, a competent institution may request the following from a foreign state:

1) a document or report regarding the fact that a convicted person is a citizen of such state or his or her permanent place of residence is located in such state;

2) the text of the law in accordance with which the offence regarding which the person has been convicted is considered criminal in such state.

(3) If necessary, a competent institution may request, before the completion of an examination, that a foreign state notify which procedure for the determination of a sentence - continuation or changing - will be applied.

Section 772. Completion of an Examination

A competent institution shall adjudicate a request within a term of 10 days after the receipt thereof or the receipt of requested additional information, and shall take one of the following decisions:

1) to submit a request regarding the transfer of a convicted person for the serving of a sentence in a foreign state;

2) agree to the transfer of a person;

3) reject the request regarding the transfer of a person.

Section 773. Request to Ensure the Serving of a Sentence for an Escaped Person

(1) A competent institution may submit to a foreign state a request to ensure the serving of a sentence in a foreign state for a citizen of such state who has been convicted in Latvia and escaped form the serving of the sentence to his or her state of citizenship. The consent of the convicted person shall not be necessary.

(2) Before the submission of a request, a competent institution may request that the competent institution of a foreign state apply temporary detention to a person, indicating

the data of the convicted person, the offence regarding which a sentence has been specified, the type and amount of the applied sentence, and the term when the serving of the sentence was commenced.

Section 774. Request to Take Over for the Serving of a Sentence a Person Who has been Subjected to Expulsion

(1) A competent institution may submit a request, without the consent of a person, to a foreign state to take over the person for the serving of a sentence, if a judgment specifies expulsion from Latvia as an additional penalty, or there is another decision binding on the person as a result of which such person is not permitted to remain in Latvia after the serving of the sentence.

(2) A copy of a judgment or decision regarding the expulsion of a convicted person, and the views of such person regarding a transfer, shall be attached to a request.

Section 775. Transfer of a Convicted Person

If Latvia has agreed to transfer a convicted person, or a foreign state has agreed to take over such person, a competent institution shall assign the Ministry of the Interior to coordinate with the foreign state the transfer of such person and transfer such person to the relevant foreign state.

Section 776. Legal Consequences of the Transfer of a Person

(1) The serving of a sentence in Latvia shall be suspended along with the transportation of a convicted person across the state border of the Republic of Latvia. The execution of a sentence shall not be renewed, if the foreign state has notified that the serving of a sentence has been completed.

(2) The execution of a sentence shall be renewed, if a foreign state notifies that:

1) a person has escaped from prison;

2) the execution of the sentence has not been completed and the person has returned to Latvia.

(3) A competent institution shall immediately inform a foreign state regarding clemency, amnesty, or the revocation or modification of a judgment.

Division Seventeen
Recognition and Fulfilment of the Criminal Judgments of Another State

Chapter 71
Execution in Latvia of a Sentence Imposed in a Foreign State

Section 777. Content and Conditions of the Execution of a Sentence Imposed in a Foreign State

(1) The execution in Latvia of a sentence imposed in a foreign state is the uncontested recognition of the justification and lawfulness of such sentence and the execution thereof in accordance with the same procedures as if the sentence were specified in criminal proceedings taking place in Latvia.

(2) The recognition of the justification and lawfulness of a sentence imposed in a foreign state shall not exclude the co-ordination thereof with the sanction provided for in the Criminal Law of Latvia regarding the same offence.

(3) The execution of a sentence imposed in a foreign state shall be possible, if:

1) Latvia has a treaty with the foreign state regarding the execution of sentences imposed by such state;

2) a foreign state has submitted a request regarding the execution of the sentence imposed in such state;

3) the sentence has been specified in the foreign state with a valid adjudication in completed criminal proceedings;

4) the convicted person could be penalised regarding the same offence in accordance with the Criminal Law of Latvia;

5) a limitation period for the execution of the sentence has not come into effect in the foreign state or in Latvia;

6) at the moment of the rendering of a judgment, a limitation period of criminal liability had not come into effect in accordance with the Criminal Law of Latvia;

7) at least one of the reasons for the submission of a request for the execution of a sentence referred to in Section 804 of this Law exists in the foreign state.

Section 778. Competent Institution

The Ministry of Justice shall receive and decide regarding a request of a foreign state regarding the execution in Latvia of a sentence imposed in such foreign state.

Section 779. Grounds for the Execution of a Sentence Imposed in a Foreign State

The following are grounds for the execution of a sentence imposed in a foreign state:

1) a written request of the competent institution of such foreign state, to which a valid court adjudication in completed criminal proceedings and a document regarding the transfer of a sentence for execution, or certified copies thereof, have been attached;

2) a decision of a competent institution regarding the acceptance of a request of a foreign state for adjudication and the transfer thereof to a court in Latvia for the determination of the sentence to be executed;

3) an adjudication of a Latvia court regarding the determination of a sentence to be executed in Latvia;

4) an order issued by a Latvian court regarding the transfer of a judgment for execution in Latvia.

Section 780. Reasons for the Rejection of a Request for the Execution of a Sentence Imposed in a Foreign State

A request for the execution of a sentence imposed in a foreign state may be rejected, if:

1) there are grounds for believing that the sentence has been specified due to the race, religious affiliation, nationality, gender, or political views of the person, or if the order is recognised as political or expressly military;

2) the execution of the sentence would be in contradiction to the international obligations of Latvia toward another state;

3) the execution of the sentence would be in contradiction to the basic principles of the Latvia legal system;

4) criminal proceedings regarding the same offence regarding which the sentence has been imposed in a foreign state are taking place in Latvia or have been completed with a final adjudication;

5) the execution of the sentence in Latvia is not possible;

6) a competent institution of Latvia finds that the foreign state is capable of executing the judgment itself;

7) the offence was not committed in the foreign state that imposed the sentence to be executed.

Section 781. Procedures for the Adjudication of a Request for the Execution of a Sentence Imposed in a Foreign State

(1) A competent institution shall adjudicate a request for the execution of a sentence imposed in a foreign state within a term of 10 days.

(2) A competent institution shall ascertain whether the grounds and conditions exist for the execution of a sentence imposed in a foreign state and whether there are reasons for the refusal of execution, and shall accept a request for adjudication or refuse the execution thereof.

(3) If a competent institution considers that provided information is not sufficient, such institution shall request additional information or documents and determine the term for the submission thereof. The term for deciding specified in Paragraph one of this Section shall be counted from the moment of the receipt of requested materials.

(4) If an adjudication applies to two or more offences of which not all are such offences regarding which the execution of a sentence in Latvia is possible, a competent institution shall request a clarification of which part of the sentence applies to the offences that comply with such requirements.

(5) A competent institution shall immediately notify the state that submitted a request regarding a taken decision.

(6) If a request has been accepted for adjudication, the Ministry of Justice shall transfer such request, together with attachments, to a court for the determination of a sentence to be executed in Latvia.

Section 782. Determination of a Sentence to be Executed in Latvia

(1) A sentence to be executed in Latvia shall be determined, on the basis of a request of a foreign state regarding the execution of a sentence imposed in such state, by a court of the same level, according to the dwelling place and place of residence of the convicted, and in the same composition as the level of the court and the composition that would adjudicate the offence if the criminal proceedings were to take place in Latvia.

(2) The actual circumstances determined in the adjudication of a court of a foreign state, and the guilt of a person, shall be binding on a Latvian court.

(3) A sentence specified in Latvia shall not reduce the condition of a convicted person, yet such sentence shall comply as much as possible with the sentence specified in a foreign state.

(4) A court shall adjudicate a matter regarding a sentence to be executed in Latvia in accordance with the procedures specified in Section 61 of this Law. A convicted person may retain an advocate for the receipt of legal assistance.

(5) If, at the moment of the adjudication of a matter, a person is located in detention in a foreign state, a court shall request, with the intermediation of the Ministry of Justice and using technical means, the transfer of such person to Latvia or the ensuring of participation in proceedings for the determination of a sentence to be executed.

(6) A convicted person and prosecutor may appeal a court decision to the Senate of the Supreme Court in accordance with cassation procedures within a term of 10 days.

(7) A complaint shall be adjudicated in accordance with the same procedures as a cassation complaint or protest submitted in criminal proceedings taking place in Latvia, and in an amount permitted by international treaties binding on Latvia and this Chapter.

Section 783. Determination of a Sentence to be Executed in Latvia and Related to Deprivation of Liberty

(1) A court shall determine deprivation of liberty or an arrest if a sentence related to deprivation of liberty has been imposed in a foreign state, and a sentence related to deprivation of liberty is provided for in the Criminal Law of Latvia regarding the same offence.

(2) The duration of a sentence shall comply as much as possible with the duration of a sentence specified in a foreign state, yet such duration shall not exceed the maximal boundary of deprivation of liberty or arrest provided for in the Criminal Law of Latvia regarding the same offence.

(3) The minimal boundary of deprivation of liberty or arrest specified in the Criminal Law of Latvia does not have any significance in deciding a matter regarding a sentence to be executed in Latvia.

(4) The entire term during which a convicted person was arrested, and the term that he or she spent in detention, and the place of the execution of a sentence, in connection with an offence regarding which a sentence was specified in a foreign state, shall be counted in the term of the serving of a sentence.

(5) The type of prison, in commencing the execution of a sentence shall be determined on the basis of the same criteria as in a case where a sentence regarding the offence were specified in criminal proceedings taking place in Latvia.

(6) A sentence imposed in a foreign state and related to deprivation of liberty shall not be substituted with a pecuniary penalty.

(7) A sentence related to deprivation of liberty may be specified conditionally in Latvia, if a court is convinced that the convicted person, without having served the sentence, will hereinafter not commit new criminal offences. In such case, the same conditions shall be applied as in a case where the person were to be convicted conditionally in criminal proceedings taking place in Latvia.

Section 784. Determination of a Pecuniary Penalty to be Executed in Latvia

(1) A court shall determine a pecuniary penalty to be executed in Latvia, if a pecuniary penalty has been imposed in a foreign state and the Criminal Law of Latvia also provides for a pecuniary penalty or a harsher penalty as a basic penalty regarding the same offence, or also if a pecuniary penalty is provided for as an additional penalty.

(2) The amount of a pecuniary penalty imposed in a foreign state shall be calculated on the basis of the currency exchange rate specified by the Bank of Latvia that was in effect on the day of the pronouncement of the judgment of conviction.

(3) A pecuniary penalty to be executed in Latvia shall not exceed the maximal boundary of a pecuniary penalty provided for in the Criminal Law of Latvia regarding such offence, except for the case where only a harsher type of penalty is provided for in Latvia regarding such offence. In such case, the pecuniary penalty to be executed in Latvia shall not exceed the maximal boundary of a pecuniary penalty specified in the Criminal Law at the moment of the taking of a decision.

(4) A court may divide the payment of a pecuniary penalty to be executed in Latvia into terms or defer such payment for a term that is not longer than one year from the day when the decision enters into effect.

(5) The distribution into terms, or deferral, of payment specified in a foreign state shall be binding on a Latvian court, though the court may additionally specify exemptions on execution, without exceeding the boundaries specified in Paragraph four of this Section.

(6) If the recovery of a pecuniary penalty to be executed in Latvia is not possible, such pecuniary penalty may be substituted with a type of penalty that is related to deprivation of liberty, if such substitution is allowed in the laws of the foreign state that rendered the judgment. In such case, the substitution of a penalty shall take place in accordance with the procedures provided for in the laws of Latvia. The substitution of a pecuniary penalty shall not be allowed if the foreign state, in submitting a request for the execution of the penalty, has specially justified such non-substitution.

Section 785. Determination of a Confiscation of Property to be Executed in Latvia

(1) A confiscation of property to be executed in Latvia shall be determined, if such confiscation has been imposed in a foreign state and if the Criminal Law of Latvia provides for such confiscation as a basic penalty or additional penalty regarding the same offence, or if property would be confiscated in criminal proceedings taking place in Latvia on grounds provided for in another law.

(2) If a judgment of a foreign state provides for the confiscation of property, but the Criminal Law of Latvia does not provide for the confiscation of property as a basic penalty or additional penalty, confiscation shall be applied only in the amount, determined in the judgment of the foreign state, that the asset to be confiscated is a tool of the committing of the offence or has been obtained by criminal means.

(3) A competent institution shall decide, in each concrete case, a request regarding the return of confiscated property, or a part thereof, to a foreign state.

Section 786. Determination of Restrictions on Rights to be Executed in Latvia

(1) All the restrictions on rights, or disqualification penalties, specified in a foreign state that comply with the criteria for the imposition of such additional penalty specified in the Criminal Law of Latvia shall be executed in Latvia.

(2) Restrictions on rights shall be determined for a term from one year up to five years, if a shorter term has not been specified in a judgment of a foreign state.

(3) The court that determines a penalty to be executed in Latvia may not apply restrictions on rights, if such court does not see the usefulness of such application of restrictions on rights in the state thereof.

(4) Restrictions on rights may also be specified in Latvia if such penalty is being executed in a foreign state.

Section 787. Procedures for the Execution of a Penalty Imposed in a Foreign State and Specified for Execution in Latvia

(1) The execution of a sentence imposed in a foreign state and specified for execution in Latvia shall take place in accordance with the same procedures as the execution of a penalty imposed in criminal proceedings taking place in Latvia.

(2) The amnesty and clemency acts accepted in Latvia and the conditions of early release shall apply to a person who is serving a penalty in Latvia imposed in a foreign state.

(3) A decision taken in a foreign state regarding the revocation of a judgment of conviction shall interrupt the execution of a penalty and annul a request for the execution of a penalty imposed in a foreign state.

(4) Decision of a foreign state regarding the reduction of a penalty and the issuance of amnesty or clemency acts are binding on Latvia.

(5) A report of a foreign state regarding the legal facts provided for in Paragraphs three and four of this Section shall be received by, and the execution thereof shall be organised by, a competent institution. If a decision of a foreign state includes unmistakable information regarding the immediate termination of the execution of a

penalty, or the end date of a penalty, such decision shall be transferred to the institution executing the penalty, and in other cases shall be transferred for adjudication to the court that decides matters related to the execution of the judgment.

(6) A person serving a sentence related to deprivation of liberty shall be immediately released as soon as information is received regarding the revocation of the judgment of conviction, if a request of a foreign state is not received simultaneously regarding the application of temporary detention in the cases provided for in this Division.

Section 788. Arrest of a Person Convicted in a Foreign State

(1) A competent institution may assign the police to arrest, for a term up to 48 hours, a person who has been convicted in a foreign state regarding an offence regarding which detention would be admissible in proceedings taking place in Latvia, if:

1) the foreign state notifies regarding the intention thereof to request the execution of a sentence imposed in such foreign state and related to deprivation of liberty, and request the arrested person in connection with his or her evasion of the sentence;

2) a competent institution discerns the possibility that the convicted person regarding whom the foreign state has submitted a request for the execution of a custodial sentence or detention order will evade participation in a court session regarding the determination of a sentence to be executed in Latvia;

3) a competent institution believes that the person convicted in a judgment by default will illegally influence witnesses, or falsify evidence, while at liberty.

(2) An arrested person shall be released, if temporary detention has not been applied to such person in the term referred to in Paragraph one of this Section.

Section 789. Temporary Detention of a Person Convicted in a Foreign State

(1) If a person has been arrested in the cases, and in accordance with the procedures, specified in Section 788 of this Law, the Ministry of Justice shall submit a proposal to the investigating judge to apply temporary detention.

(2) A judge shall adjudicate the proposal of a competent institution in accordance with the same procedures as a proposal regarding the application of temporary detention in a case where criminal proceedings are transferred to Latvia.

(3) Temporary detention may also by applied by the court that adjudicates the request of a foreign state to execute a sentence related to deprivation of liberty, if there are grounds for believing that the convicted person will evade the court.

(4) A person shall be released from temporary detention, if:

1) a foreign state has not submitted a request for the execution of a penalty, together with necessary attachments, within a term of 18 days;

2) a competent institution has notified that such institution will not accept a request for adjudication;

3) the court has determined that the execution of the sentence in Latvia is not possible;

4) the court, in determining a sentence to be executed in Latvia, has not applied detention as a security measure;

5) circumstances have been determined that exclude the holding of the person in detention.

Section 790. Application of a Detention Order

In determining a sentence to be executed in Latvia, a court may apply, up to the moment of the entering into effect of a decision and the issuance of an order regarding the execution of a sentence, any detention in order in accordance with the same procedures as in criminal proceedings taking place in Latvia.

Section 791. Order regarding the Execution of a Sentence in Latvia

(1) If a court decision regarding the execution in Latvia of a sentence imposed in a foreign state has not been appealed within a specific term, a judge of the same court shall issue an order regarding the execution of the sentence.

(2) If a court decision has been appealed and the Senate of the Supreme Court has left such decision in effect, the judge making the account shall issue an order regarding the execution of a sentence.

Section 792. Procedures for the Adjudication of a Request for the Execution of a Sentence Imposed in a Judgment by Default (*in absentia*) in a Foreign State

(1) If a judgment has been made in a foreign state by default, a competent institution, having received a request of the foreign state regarding the execution thereof in Latvia, shall issue to the convicted person a report that indicates that:

1) a foreign state with which Latvia has a treaty regarding the execution of a sentence imposed in a judgment by default in a second state has submitted the request regarding the execution of the sentence;

2) the person has the right to submit a complaint, within a term of 30 days from the day of the receipt of the report, with an action regarding the adjudication in his or her presence in a foreign state or Latvia of the case adjudicated by default;

3) the sentence will be conformed and executed in accordance with general procedures, if the adjudication of the case in the presence of the convicted person is not requested, or if the complaint is rejected or left without adjudication in connection with the non-arrival of the convicted, within a term of 30 days;

(2) A convicted person shall submit the complaint provided for in Paragraph one of this Section to a competent institution of Latvia. If the complaint does not indicate the state of adjudication, such complaint shall be adjudicated in Latvia.

(3) The Ministry of Justice shall immediately send a copy of a report, with a notation regarding the issuance thereof, to the state that submitted the request.

Section 793. Submission of Complaints to a Foreign State

(1) If a convicted person has submitted a complaint, within the term specified by law, requesting the repeated adjudication of a case in his or her presence in the state that imposed the sentence, a competent institution shall defer the adjudication of the request.

(2) If an accused has not arrived, without a justifiable reason, in a foreign state on the basis of a summons of a court issued not later than 21 days before the day of the commencement of the repeated adjudication, a complaint shall be considered not submitted, and a competent institution shall adjudicate the request, after the receipt of information, in accordance with the same procedures as in a case where the case were to be adjudicated in the presence of the convicted.

(3) If a judgment of conviction has been revoked as a result of the adjudication of a complaint, a competent institution shall send the request non-decided to the state that submitted such request.

(4) If a person convicted in a judgment by default is in temporary detention in Latvia on the basis of a request of a foreign state, such person shall be transferred to the foreign state for the adjudication of a complaint in the presence thereof. In such case, the matter regarding the subsequent holding of such person in detention shall be decided by the state that imposed the sentence.

(5) If a person convicted in a foreign state who has submitted a complaint to the state that imposed a sentence has been arrested in Latvia in connection with another criminal proceedings, or is serving a sentence regarding another offence, a competent institution shall inform the state that submitted the request thereof, and co-ordinate the time when the convicted person may be transferred to the foreign state for participation in the adjudication of the complaint.

(6) A convicted person may participate in the adjudication of a complaint by using technical means, if the law of the foreign state allows for such participation by using technical means. Participation using technical means shall not influence the procedural rights of the convicted person in proceedings taking place in the foreign state. If the convicted person has retained an advocate of a foreign state for the receipt of legal assistance, the advocate has the right to meet with such person in confidential conditions in Latvia and to participate, together with his or her client, in the adjudication of the complaint by using technical means.

(7) The retaining of an advocate of a foreign state shall not influence the right of a convicted person to legal assistance in Latvia.

Section 794. Submission of a Complaint to Latvia

(1) If a person convicted in a judgment by default requests the adjudication of a complaint in a Latvian court, a competent institution shall immediately inform a foreign state regarding such request and transfer the complaint, and the request of the foreign state together with attachments, to the court that would be competent to adjudicate the case if the criminal proceedings were taking place in Latvia.

(2) From the moment when a court receives a complaint, criminal proceedings shall continue in Latvia, and a convicted person shall acquire the status of an accused and all the rights of an accused, as well as the right to retain an advocate as a defence counsel in accordance with the procedures specified in this Law.

Section 795. Procedures for the Adjudication of Complaints in Latvia

(1) A summons to court shall be issued to an accused not later than 21 days before the day of the adjudication of a complaint, unless he or she has expressed unmistakable consent for the application of a shorter term.

(2) If a convicted person does not arrive without a justifiable reason, a court shall be released from the adjudication of the case, and the matter regarding the execution in Latvia of a sentence imposed in reverse in a foreign state shall be adjudicated in accordance with the same procedures as regarding a sentence imposed in the presence of a person.

(3) If the laws of a foreign state so allow, procedural actions with persons located in the foreign state may be performed in the adjudication of a complaint by using technical means.

(4) A court shall render one of the following adjudications as a result of adjudication:

1) a decision regarding the rejection of a complaint, and the determination of a sentence to be executed in Latvia, without the substantial adjudication of a case;

2) a decision regarding the revocation of a court adjudication taken in reverse in a foreign state and regarding the continuation of criminal proceedings in Latvia from the criminal prosecution stage.

Section 796. Utilisation of Materials of a Foreign State

(1) The court to which the adjudication of a complaint of a person convicted in a judgment by default in a foreign state has been assigned shall request, with the intermediation of a competent institution, the necessary materials at the disposal of the foreign state and related to the adjudication of the offence.

(2) Evidence obtained in a foreign state in accordance with the procedures specified in such foreign state shall be evaluated in the same way as evidence obtained in Latvia.

Section 797. Execution in Latvia of a Sentence Specified in a Foreign State in Accordance with Extrajudicial Procedures (*ordonnance penale*)

(1) In the cases provided for in international treaties, a sentence specified in accordance with extrajudicial procedures shall be executed in Latvia in accordance with the same procedures as a sentence imposed as a result of a trial.

(2) Having received a request regarding the execution in Latvia of a sentence specified in accordance with extrajudicial procedures, a competent institution shall issue to a person for whom a sentence has been specified in a foreign state a report that indicates that:

1) a foreign state with which Latvia has a treaty regarding the execution of a sentence specified in accordance with extrajudicial procedures in a second state has submitted the request regarding the execution of the sentence;

2) a person may request, within a term of 30 days, the adjudication of a case in a court in a foreign state or Latvia by submitting a complaint to a competent institution of Latvia;

3) the sentence will be conformed and executed in accordance with general procedures, if the adjudication of the case in the presence of the convicted person is not requested, or if the complaint is rejected or left without adjudication in connection with the non-arrival of the convicted person, within a term of 30 days;

(3) A complaint regarding the adjudication in court of a sentence specified in accordance with extrajudicial procedures shall have the same consequences and subsequent adjudication procedures as a complaint if the sentence were imposed in reverse.

Section 798. Limitation Periods of Criminal Liability and of the Execution of Sentences

(1) The execution in Latvia of a sentence imposed in a foreign state shall restrict both the limitation periods of criminal liability, and of the execution of a sentence, provided for in the Criminal Law of Latvia and the limitation periods provided for in the laws of the foreign state.

(2) Circumstances that influence the course of a limitation period in a foreign state shall influence such course in Latvia in the same amount.

Section 799. Inadmissibility of Double Litigation

A sentence imposed in a foreign state shall not be imposed in Latvia, if a person has served a sentence imposed in Latvia or a third state regarding the same offence, has been tried without the determination of a sentence, has been released from a sentence in accordance with clemency or amnesty, or has been acquitted regarding the same offence.

Section 800. Observation of a Judgment of a Foreign State in Criminal Proceedings Taking Place in Latvia

(1) In determining a sentence in criminal proceedings taking place in Latvia for a person in relation to whom a foreign state has requested the execution of a sentence in Latvia, the sentence to be executed in Latvia shall be attached to the sentence imposed in the foreign state in accordance with the procedures by which the determination of the sentence on the basis of several judgments is provided for in the Criminal Law.

(2) The classification of offences, on the basis of the Criminal Law of Latvia, for an offence regarding which a sentence imposed in a foreign state is being executed in Latvia shall have the same significance as for an offence that is being adjudicated in criminal proceedings taking place in Latvia.

Section 801. Deferral of the Execution of a Sentence

The execution in Latvia of a sentence imposed in a foreign state may be deferred in the same cases and in accordance with the same procedures as the execution of a sentence imposed in Latvia.

Chapter 72
Execution in a Foreign State of a Sentence Imposed in Latvia

Section 802. Content and Conditions of the Execution of a Sentence Imposed in Latvia

(1) The execution in a foreign state of a sentence imposed in Latvia is the recognition of the justification and lawfulness of such sentence and the execution thereof in accordance with the same procedures as if the sentence were specified in criminal proceedings taking place in such foreign state.

(2) The following are conditions for the submission of a request to a foreign state regarding the execution of a sentence imposed in Latvia:

1) Latvia has a treaty with the foreign state regarding the execution of sentences imposed in a second state;

2) the offence regarding which the sentence has been imposed is also criminal in accordance with the laws of the foreign state;

3) the convicted person would be criminally punishable if criminal proceedings were to take place in the foreign state;

4) the judgment with which the sentence has been specified has entered into effect in Latvia;

5) Latvia has submitted to a foreign state a request for the execution of the sentence together with a valid court judgment and an order regarding the transfer of the judgment for execution.

Section 803. Competent Institution

The Ministry of Justice shall submit a request to a foreign state for the execution of a sentence imposed in Latvia.

Section 804. Reasons for the Submission of a Request for the Execution of a Sentence Imposed in Latvia

Latvia may request for a foreign state to execute a sentence imposed in Latvia, if the conditions referred to in Section 802, Paragraph two of this Law, and one or more of the following reasons, exist:

1) the convicted person is not located in Latvia but permanently lives or usually resides in the foreign state;

2) the execution of the sentence in the foreign state would promote the social rehabilitation of the person;

3) the convicted person is serving a sentence related to deprivation of liberty in a foreign state, and has been convicted in Latvia with deprivation of liberty or an arrest that may be executed immediately after the serving of the sentence imposed in the foreign state;

4) the foreign state is the state of citizenship of the convicted person, and such state has expressed a readiness to promote the social rehabilitation of the person;

5) Latvia would not be capable of executing the sentence, even by utilising extradition.

Section 805. Request for the Execution of a Sentence Imposed in Latvia

(1) In addition to that which is indicated in Section 678 of this Law, a request for the execution of a sentence imposed in Latvia must also substantiate that conditions and reasons exist for the execution of the sentence in a foreign state.

(2) The following shall be attached to a request:

1) the original or a certified copy of a court adjudication;

2) the original or a certified copy of an order regarding the transfer of a judgment for execution;

3) the text of the incriminating Section of the Criminal Law of Latvia.

(3) A criminal case or certified copies of the documents therein shall be submitted to a foreign state on the basis of a request of such state.

(4) If a sentence has been specified regarding several offences or on the basis of several judgments, but not all the offences allow for the execution in a foreign state of the imposed sentence, a competent institution shall propose for a court to determine a sentence that would have to be served regarding the offences regarding which the execution of the sentence in the foreign state is possible. The court shall determine the sentence in accordance with the procedures provided for in Division Thirteen of this Law.

Section 806. Consequences of the Submission of a Request for the Execution of a Sentence Imposed in Latvia

(1) After the submission to a foreign state of a request for the execution of a sentence imposed in Latvia, institutions of Latvia shall not perform any operations related to the execution of the sentence.

(2) The restrictions specified in Paragraph one of this Section do not apply to cases where a security measure – detention has been applied to a person, and such person has been convicted with deprivation of liberty, before the submission of a request. In such case, the execution of a sentence of deprivation of liberty may be commenced.

(3) Restrictions on rights specified as an additional penalty may be executed in Latvia independent of the submission of a request regarding the execution of a sentence in a foreign state.

Section 807. Detention of a Person Convicted in Latvia

(1) If justified suspicions exist that a convicted person might evade the serving of a sentence of deprivation of liberty in a foreign state, a competent institution of Latvia may request for the foreign state to detain the convicted person up to the submission and deciding of a request for the execution of a sentence imposed in Latvia.

(2) If a person has been detained in a foreign state on the grounds of the request indicated in Paragraph one of this Section, a request for the execution of a sentence shall

be submitted in as short a time as possible, but not later than on the fifteenth day after the detention of the person.

(3) A person detained in Latvia shall be transferred to a foreign state for participation in proceedings regarding the determination of a sentence to be executed. If a court of the foreign state determines that the execution of the sentence imposed in Latvia is not possible in such state, Latvia shall take over the convicted person and decide, in accordance with general procedures, regarding the holding of such person in detention or the releasing of such person.

(4) A person detained in Latvia may participate in the determination of a sentence by using technical means, if the laws of a foreign state allow for such participation by using technical means.

(5) If a judgment is revoked in Latvia on the basis of which a foreign state is executing a sentence of deprivation of liberty, and the case is transferred for new adjudication, a competent institution shall immediately inform the foreign state and may submit a request regarding the application of temporary detention in the cases provided for in this Division.

Section 808. Rights of Latvia During the Execution of a Sentence in a Foreign State

(1) A court adjudication with which a sentence has been specified that is being executed in a foreign state may only be re-examined by a Latvian court.

(2) If a court adjudication is revoked, a competent institution shall immediately inform a competent institution of a foreign state regarding such revocation. Such information shall annul a previously submitted request regarding the execution of a sentence.

(3) If a court adjudication has been modified, as a result of re-examination, in the part regarding the type or amount of a sentence or the conditions for the execution of a sentence, a competent institution shall submit an addition to the request regarding the execution of the sentence.

(4) Amnesty acts accepted in Latvia also apply to person to whom a sentence has been imposed in Latvia but is being executed in a foreign state, therefore a competent institution shall immediately send such acts to the foreign state to which request for the execution of the penalty have been submitted, but from which information has not been received regarding the completion of execution.

(5) A convicted person for whom a sentence is being executed in a foreign state may be granted clemency in Latvia in accordance with the procedures specified by law. A competent institution shall immediately inform a competent institution of a foreign state regarding the acceptance of the act of clemency.

Section 809. Regaining of the Rights of the Execution of a Penalty

(1) Latvia shall regain the rights to the execution of a penalty, if:

1) a request has been withdrawn before a foreign state has notified regarding the intention to execute the penalty;

2) a foreign state has notified regarding the rejection of a request;

3) a foreign state unmistakably does not implement the rights thereof for the execution of a penalty, though such state has notified regarding the intention thereof to execute such penalty;

4) as a result of the delay of a foreign state, the execution of the penalty in such state is not possible.

(2) If a request for the execution of a penalty has been annulled in connection with the revocation of a court adjudication, criminal proceedings shall take place in Latvia in accordance with general procedures.

(3) Regardless of the place of the execution of a penalty, all that has been executed in Latvia and a foreign state shall be included in the served part of the penalty.

(4) The execution of a penalty in Latvia shall not be possible, if a foreign state has notified regarding the completion of the execution of the penalty, or it has become known that the person has been acquitted regarding the same offence, has served the penalty, has been convicted without the determination of a penalty, or has been granted amnesty or clemency in another foreign state with which Latvia has a treaty regarding the mutual execution of judgments.

Section 810. Limitation Periods

(1) A competent institution shall inform a foreign state regarding the coming into effect of a limitation period provided for in the Criminal Law of Latvia and all the circumstances that influence the course of the limitation period.

(2) A limitation period provided for in the laws of a foreign state shall not be an impediment to the execution of a penalty in Latvia after the regaining of the rights to execution.

Division Eighteen
Assistance in the Performance of Procedural actions

Chapter 73
Assistance to a Foreign State in the Performance of Procedural actions

Section 811. Grounds for the Assistance to a Foreign State in the Performance of Procedural actions

The following are grounds for procedural assistance:

1) a request of a foreign state regarding the provision of assistance in the performance of a procedural action (hereinafter in this Chapter also - request of a foreign state);

2) a decision of a competent institution of Latvia regarding the admissibility of a procedural action.

Section 812. Competent Institutions in the Examination of a Request of a Foreign State

(1) In the pre-trial proceedings stage, the Office of the Prosecutor General shall examine and decide a request of a foreign state, and up to the commencement of criminal prosecution the Ministry of the Interior shall also examine and decide such request.

(2) In the trial stage, the Ministry of Justice shall examine and decide a request of a foreign state.

(3) If state or competent institutions have come to an agreement regarding direct contact, the relevant institutions shall examine and decide requests.

Section 813. Procedures for the Fulfilment of a Request of a Foreign State

(1) A request of a foreign state regarding the provision of assistance in the performance of a procedural action shall be fulfilled in accordance with the procedures specified in this Law.

(2) A request may be fulfilled in accordance with other procedures if so requested by a foreign state and if such execution is not in contradiction with the basic principles of the criminal procedure of Latvia.

(3) On the basis of a request of a foreign state, a competent institution may permit a representative of the foreign state to participate in the performance of a procedural action, or to personally perform such operation in the presence of a representative of the institution fulfilling the request.

Section 814. Deciding of a Request of a Foreign State

(1) A request of a foreign state regarding the provision of assistance in the performance of a procedural action shall be decided immediately, but not later than within a term of 10 days after the receipt thereof. If additional information is necessary for the deciding of a request, such information shall be requested from the state that submitted the request.

(2) In adjudicating a request of a foreign state, a competent institution shall take one of the following decisions:

1) regarding the possibility of the execution of the request, determining the institution that will fulfil the request, terms, and other conditions;

2) regarding a refusal to fulfil the request or a part thereof, substantiating the refusal.

(3) A state that submitted a request shall immediately be informed regarding a taken decision, if the execution of the request or a part thereof has been rejected or if a foreign state has so requested.

Section 815. Fulfilment of a Request of a Foreign State

(1) An investigative institution, the Office of a Public Prosecutor, or a court shall fulfil a request of a foreign state under the assignment of a competent institution.

(2) The institution fulfilling a request of a foreign state shall, in a timely manner, inform the foreign state, on the basis of an order of a competent institution, regarding the

time and place of the performance of a procedural action. The competent institution shall send to the foreign state the materials obtained as a result of the execution of the request.

(3) If a procedural action has not been performed or has been performed partially, a foreign state shall be notified regarding the reasons for the non-execution of a request.

(4) If, in fulfilling a request of a foreign state, facts are acquired for the further examination of which the performance of other emergency procedural actions are necessary, the executor of the request is entitled, in accordance with the procedures specified in this Law, to perform such operations, notifying the initiator of the request thereof.

(5) The executor of a request of a foreign state, having determined during the execution of the request objects and documents whose circulation is prohibited by law and whose seizure is not justified in the request, shall seize such objects and documents, and write a separate protocol regarding such seizure.

Section 816. Reasons for the Refusal of the Fulfilment of a Request of a Foreign State

The execution of a request of a foreign state may be refused, if:

1) the request is related to a political offence;

2) the execution of the request may harm the sovereignty, security, social order, or other substantial interests of the State of Latvia;

3) sufficient information has not been submitted and the acquisition of additional information is not possible.

Section 817. Performance of a Procedural action by Utilising Technical Means

(1) A procedural action may be performed by utilising technical means on the basis of a request of a foreign state or on the basis of a proposal of the institution fulfilling a request and with the consent of a foreign state.

(2) A competent official of the state that submitted a request shall perform, in accordance with the procedures of such state, a procedural action using technical means. If necessary, an interpreter shall participate in the performance of such procedural action in Latvia or a foreign state.

(3) A representative of the institution that fulfils a request shall certify the identity of involved persons and ensure the progress of a procedural action in Latvia and the compliance thereof to the basic principles of Latvian criminal procedure.

(4) If, in performing a procedural action, the basic principles of Latvian criminal procedure are violated, a representative of the institution fulfilling a request shall immediately perform measures in order for such operation to continue in accordance with the referred to principles.

(5) A person who has been summoned to provide testimony has the right to not provide testimony also in a case where such non-provision of testimony arises from the laws of the state that submitted the request.

Section 818. Application of Compulsory Measures

Latvia may refuse the application of a compulsory measure regarding an offence that is not criminally punishable in Latvia, if:

1) Latvia does not have a treaty regarding mutual legal assistance in criminal cases with the state that submitted the request;

2) such treaty exists, but the foreign state has undertaken to apply compulsory measures in such state only regarding offences that are criminally punishable in such state.

Section 819. Performance of Special Investigative Actions

A special investigative action shall be performed on the basis of a request of a foreign state only in a case where such operation would be admissible in criminal proceedings taking place in Latvia regarding the same offence.

Section 820. Temporary Transfer of a Person

(1) On the basis of a request of a foreign state, a person who has been arrested in Latvia, is located in detention in Latvia or is serving a sentence related to deprivation of liberty in Latvia may be transferred for a specific term to the foreign state for the provision or confronting of testimony with the condition that such person will be immediately transferred back to Latvia after the completion of the procedural action, but not later than the last day of the term of transferral.

(2) Transfer may be refused, if:

1) the arrested, detained, or convicted person does not agree to such transfer;

2) the presence of such person is necessary in criminal proceedings taking place in Latvia;

3) the transportation of the person prohibits the possibility to complete criminal proceedings in Latvia in a reasonable term;

4) other substantial reasons exist.

(3) The term that a person has spent, on the basis of a request of a foreign state, in detention in the foreign state shall be included in the term of a security measure and a served sentence.

Section 821. Temporary Acceptance of a Person

(1) If a foreign state requests that a person who is in detention, or is serving a sentence related to deprivation of liberty, in such foreign state be located in Latvia during a procedural action, a competent institution may permit the acceptance of such person during the performance of the procedural action.

(2) A person who has been conveyed to Latvia on the basis of a request of a foreign state shall be held in detention on the grounds of the documents referred to in Section 702, Paragraph one, Clause 1 of this Law. After the execution of the request, such persons shall be immediately transferred back to the foreign state, but not later than the last day of the term of transfer.

Section 822. Fulfilment of the Temporary Transfer or Acceptance of a Person

A competent institution shall assign the Ministry of the Interior to co-ordinate with a foreign state and perform the transfer or acceptance of a person for a term.

Section 823. Immunity of a Person

(1) Criminal proceedings shall not be commenced or continued against a person regarding an offence that was committed before the arrival of such person in Latvia if he or she arrived in Latvia with the consent of Latvia for the execution of a request of a foreign state.

(2) The immunity specified in Paragraph one of this Section shall be terminated for a person after 15 days from the moment when such person could leave the territory of Latvia, as well as in the case where the person has left the territory of Latvia and then voluntarily returned to Latvia.

Section 824. Transfer of an Object to a Foreign State

An object necessary as material evidence may be transferred to a foreign state on the basis of a request of such foreign state. If necessary, a competent institution of Latvia shall request guarantees that the object will be returned.

Section 825. Procedures for the Issuance of Procedural Documents of a Foreign State

On the basis of a request of a foreign state, a competent institution shall organise the issuance of the procedural documents of a foreign state to a person in Latvia. A protocol shall be written regarding such issuance in accordance with the requirements of Section 326 of this Law.

Chapter 74
Request to a Foreign State regarding the Performance of Procedural actions

Section 826. Procedures for the Submission of a Request

(1) If the performance of a procedural action in a foreign state is necessary in a criminal case, a person directing the proceedings shall turn to a competent institution with a written proposal to request for the foreign state to perform the procedural action. The request and other documents provided for in Section 827, Paragraph one of this Law shall be attached to the proposal.

(2) A proposal shall be adjudicated within a term of 10 days, and the submitter shall be informed regarding the results.

(3) If a proposal is found to be justified, a competent institution shall send a request to a foreign state.

Section 827. Request regarding the Performance of a Procedural action in a Foreign State

(1) A request regarding the performance of a procedural action in a foreign state shall be written in accordance with Section 678 of this Law, and documents shall be attached to such request that would be necessary if the procedural action were to be performed in Latvia in accordance with this Law.

(2) The following may be requested of a foreign state:

1) to allow a Latvian official to participate in the performance of a procedural action;

2) to notify the time and place of the performance of a procedural action;

3) to perform a procedural action by utilising technical means.

Section 828. Request regarding the Temporary Transfer of a Person

(1) A competent institution may request, on the basis of a written proposal of a person directing the proceedings, that a person who has been detained in a foreign state, is in detention in a foreign state, or is serving a sentence related to deprivation of liberty in a foreign state be transferred for a specific term for the performance of procedural actions.

(2) A competent institution may request, on the basis of a proposal of a person directing the proceedings, a foreign state to accept for a term a person who is in detention, or is serving a sentence related to deprivation of liberty, in Latvia, if the presence of such person is necessary for the execution of a procedural action in the foreign state.

Section 829. Immunity of a Person Summoned to Latvia

(1) Criminal proceedings shall not be commenced or continued against a person regarding an offence that was committed before the arrival of such person in Latvia if he or she arrived in Latvia on the basis of a summons of a Latvian institution for the performance of procedural actions.

(2) The immunity specified in Paragraph one of this Section shall be terminated for a person after 15 days from the moment when such person could leave Latvia, as well as in the case where the person has left Latvia and then voluntarily returned to Latvia.

Division Nineteen
Separate Matters of International Co-operation

Chapter 75
Joint Investigative Groups

Section 830. Joint Investigative Groups and the Conditions of the Establishment thereof

(1) A joint investigative group is officials of Latvia and one foreign state or several foreign states authorised to perform pre-trial proceedings who operate jointly within the framework of criminal proceedings taking place in one state.

(2) A joint investigative group shall be established for the performance of concrete criminal proceedings, with the involved states mutually agreeing regarding the leader, composition, and term of operation thereof.

(3) A joint investigative group shall be established for the purpose of eliminating unjustified delays of proceedings that are related to the necessity to perform investigative actions in several states, particularly in cases where several states have commenced criminal proceedings regarding one and the same offence or a significant amount of the investigation is to be performed outside of the territory of the state in which the criminal proceedings are taking place.

Section 831. Competent Officials

The Prosecutor General, or, for the entering into of a concrete agreement, a person authorised by him or her, shall sign agreements on behalf of Latvia regarding the establishment of a joint investigative group.

Section 832. Grounds for the Operations of a Joint Investigative Group in Latvia

Grounds for the operation of a joint investigative group in Latvia are an agreement, signed by the official provided for in Section 831 of this Law, regarding the participation of Latvia in the establishment of such group.

Section 833. Leader of a Joint Investigative Group and His or Her Authorisations

(1) The leader of a joint investigative group (hereinafter in this Chapter - leader) is a representative of the state in which criminal proceedings are taking place.

(2) The appointment of a leader is an integral part of an agreement. A leader may be replaced only with the consent of all member states.

(3) If a leader is a representative of Latvia, he or she shall have the following authorisations:

1) to implement all the procedural rights that he or she would have if proceedings were taking place only in Latvia;

2) to assign an attached member of the group to independently perform procedural actions in Latvia;

3) to assign an attached member of the group to perform a specific amount of an investigation in the state of which he or she is a representative;

4) to decide the amount in which each member of the joint group is to be familiarised with the information at the disposal of the group.

(4) By coming to an agreement, member states may specify another scope of the power of the authorisation of a leader.

Section 834. Member Attached by a Foreign State in a Joint Investigative Group

(1) In criminal proceedings taking place in Latvia, the attached member of a joint investigative group is the representative in such group of another member state.

(2) An employee of a multinational organisation may also be included in a joint investigative group, if he or she would have such rights in one of the member states.

(3) An attached member may independently perform in Latvia the procedural action assigned by a leader.

(4) An attached member shall perform procedural actions in the state that he or she represents within the framework of his or her authorisation and in the amount specified by a leader.

(5) If the legal assistance of a third state is necessary in the part of criminal proceedings the performance of which has been assigned to an attached member, such member shall submit requests for legal assistance in accordance with the procedures specified in his or her state.

Section 835. Latvian Member in a Joint Investigative Group

(1) The agreement regarding the establishment of a joint investigative group shall determine the procedural authorisation of the Latvian attached member in the state in which criminal proceedings are taking place.

(2) In criminal proceedings taking place in a foreign state, the Latvian attached member of a group has the right to independently perform procedural actions in Latvia within the framework of his or her procedural authorisation and in the amount specified by the leader.

(3) A member of a joint investigative group may place at the disposal of the leader all the information necessary for criminal proceedings available for him or her in Latvia in connection with his or her position.

(4) If criminal proceedings are taking place in Latvia, a joint investigative group may have several Latvian representatives. The authorisations thereof and relationship thereof with the leader are the same as in the case where criminal proceedings were to be performed only in an investigative group established in Latvia.

Section 836. Procedures in Criminal Proceedings Taking Place in Latvia

(1) If the leader is the Latvian representative, criminal proceedings shall take place in accordance with the procedures specified in Latvia.

(2) Attached members shall perform procedural actions in the state thereof in accordance with the procedures specified in such state, if the leader has not requested the application of procedures specified in Latvia and such application is allowed by the legal system of the foreign state.

(3) All of the procedural actions performed in Latvia shall be subject to appeal in accordance with the procedures specified by Latvian law.

(4) The head of an investigative institution and a public prosecutor shall perform control and supervision in accordance with general procedures, if an agreement does not specify otherwise.

Section 837. Transfer of Criminal Proceedings to Another State

(1) If the conditions and reasons provided for in Chapter 68 of this Law exist for the transfer to another member state of criminal proceedings taking place in Latvia, the competent representatives of the states shall come to an agreement regarding the appointing of another leader.

(2) If member states are not capable of coming to an agreement regarding the replacement of a leader, or if reasons exist for the transfer of criminal proceedings to a third state, the operations of the joint investigative group shall be interrupted and shall hereinafter comply with the procedures specified in Chapter 43 of this Law.

(3) If a member state does not agree to the transfer of proceedings to a third state, the materials submitted by such state shall be returned upon request.

Section 838. Extradition

Extradition shall take place in accordance with general procedures independently of whether a person to be extradited is located in a member state or a third state.

Chapter 76
Criminal-legal Co-operation with International Courts

Section 839. Frameworks of Criminal-legal Co-operation

(1) Criminal-legal co-operation shall take place with international courts only in relation to the criminal offences that are under the competence of such courts.

(2) The immunity of a person provided for in Latvian laws or in international regulatory enactments, or the special procedural provisions that it is possible to connect with the position to be held by a person subject to an investigation, may not be an impediment to the jurisdiction over such person implemented by an international court.

Section 840. Competent Institutions in Co-operation with International Courts

(1) The Ministry of Justice is the competent institution in criminal-legal co-operation with international courts.

(2) If necessary, the utilisation of the intermediation of the international criminal-police organisation (Interpol) shall be admissible.

Section 841. Grounds for the Transfer of a Person to an International Court

(1) A person against whom prosecution has been pursued in an international court or who has been transferred to a court may be transferred for criminal prosecution and litigation on the basis of the request of such court.

(2) A person who is a Latvian citizen may be transferred for criminal prosecution and litigation in an international court only if a certification has been received from the international court that in the case of conviction the person will serve a sentence of deprivation of liberty in Latvia.

(3) The legal grounds for the transfer of a person to an international court are the basic document of the establishment of the international court and the provisions of this Law.

Section 842. Reasons for a Refusal to Transfer a Person

The transfer of a person to an international court shall not be admissible in cases where one of the reasons exist that are referred to in Section 697, Paragraph one, Clauses 2 and 3 and Paragraph two, Clauses 3, 4, and 5 of this Law.

Section 843. Examination, Deciding, and Fulfilment of a Request for the Transfer of a Person

(1) A request regarding the transfer of a person to an international court shall be examined, a person shall be arrested and detained, and all the matters related to the request shall be decided and fulfilled in accordance with the procedures specified in Sections 698 - 711 of this Law.

(2) A request of an international court regarding the transfer of a person has priority in comparison with an extradition request submitted by another state. If an international court has not itself specified with a decision that a concrete case is only under the jurisdiction of the international court, the order of competing requests shall be determined by a competent institution, in compliance with the provisions of Section 709 of this Law.

Section 844. Assistance to an International Court in the Performance of Procedural Actions

(1) A competent institution shall, on the basis of a request of an international court, organise and provide to such court the necessary assistance in the performance of procedural actions in an investigation and criminal prosecution. A request may also provide for co-operation in the execution of protection measures of victims and witnesses and measures for the purpose of confiscation, particularly in the interests of victims.

(2) A request shall be fulfilled in accordance with the procedures specified in Sections 813-815, 817-820, 824, and 825 of this Law.

(3) A request may be rejected, if such request applies to an issuance of documents or a disclosure of evidence that affects the safety of the state, unless a request may be fulfilled with particular conditions or later.

(4) Officials authorised by an international court have the right to perform the necessary procedural actions in the territory of Latvia independently or in co-operation with a competent international organisation or competent Latvia institution. If procedural

actions are not related to the application of a compulsory measure, an official authorised by an international court, after consultations with a competent institution of Latvia, may perform such operations without the presence of a representative of the competent institution.

Section 845. Fulfilment of Adjudications of a Financial Nature of an International Court

(1) A competent institution shall perform the measures provided for in this Law in order to ensure that a decision of an international court is fulfilled regarding consideration for victims, restitution, compensation, and exoneration.

(2) The execution of a pecuniary penalty, or confiscation of property, specified by an international court shall take place in accordance with the procedures provided for in the regulatory enactments of Latvia, without harming the bona fide rights of third persons.

(3) A competent institution shall perform the measures provided for in this Law in order to regain the value of the income, property, or assets thereof that are to be confiscated on the basis of a decision of an international court. Obtained property or income shall be transferred to the international court.

Section 846. Execution of a Judgment of Conviction of an International Court

(1) If an international court has determined that a sentence related to deprivation of liberty is to be executed in Latvia by a convicted person, a competent institution shall immediately inform the international court regarding the possibility of the execution of the sentence or also regarding circumstances that might substantially influence the execution of the sentence in Latvia.

(2) The execution of a sentence shall take place in accordance with the same procedures as the execution of a penalty imposed in criminal proceedings taking place in Latvia. A convicted person has the right to communicate with an international court without hindrance and confidentially, and the international court has the right to perform supervision of the execution of the sentence.

(3) Only an international court shall be permitted to reduce or change the amount of a sentence specified by such court.

(4) During the execution of a sentence, a competent institution shall inform an international court at least 45 days in advance regarding the execution of previously specified conditions and regarding any circumstances that may substantially influence the provisions or term of imprisonment.

(5) If, after the serving of a sentence, a person does not have rights or is not given permission to remain in Latvia, such person shall be transported to another state that must accept such person or that agrees to accept such person, complying with the choice of the person.

(6) The criminal prosecution, penalising, or extradition to another state of a convicted person regarding an offence that such person committed before being conveyed for the serving of a sentence in Latvia may take place only with the consent of an international

court, except for cases where the person remains voluntarily in Latvia after the serving of the sentence for more than 30 days, or has left Latvia and then returned to Latvia.

Section 847. Confidentiality of Information

(1) Requests of an international court regarding co-operation and the documents attached to such request shall be held in secrecy, except for cases where the disclosure thereof is necessary for the execution of a request.

(2) In providing legal assistance, a competent institution may request for an international court to perform measures in order not to allow the disclosure of information that might harm the interests of state security, in order to protect Latvian officials, or also to protect other restricted-access information.

(3) A competent institution shall be permitted to provide to an international court information provided confidentially by another state only if the state that provided the information has agreed to such provision.

Transitional Provisions

1. Up to the day of the coming into force of this Law, procedural actions performed in accordance with the Criminal Procedure Code of Latvia and the materials obtained as a result thereof shall preserve the legal status thereof.

2. Procedural actions that have been commenced, up to the day of the coming into force of this Law, in accordance with the Criminal Procedure Code of Latvia shall also be completed in accordance with the procedures of the referred to Code.

3. In criminal cases that have been initiated up to the day of the coming into force of this Law, the term of pre-trial proceedings shall begin to be counted from the day of the coming into force of this Law.

4. For security measures that have been applied to persons up to the day of the coming into force of this Law and in relation to which the Criminal Procedure Code of Latvia did not specify a procedural term, such term shall begin to be counted from the day of the coming into force of this Law.

5. The term specified in a procedural decision or in the relevant norm of the Criminal Procedure Code of Latvia shall be in effect in concrete criminal cases in relation to security measures that have been applied to person before the day of the coming into force of this Law.

6. If this Law does not provide for a previously applied security measure, a performer of proceeding shall take a decision, within a term of one month after the day of the

coming into force of this Law, regarding the revocation or modification of such security measure.

7. If a person has been recognised as a suspect in accordance with the procedures provided for in Section 70 of the Criminal Procedure Code of Latvia, a person directing the proceedings shall decide, within a term of 10 days after the day of the coming into force of this Law, regarding the recognition of the person as a suspect in accordance with this Law.

8. In criminal cases in which civil claims were submitted up to the day of the coming into force of this Law, such civil claims shall hereinafter be considered applications for a compensation for harm. If in such cases the civil claimant is not simultaneously also the victim or the civil respondent is not simultaneously also the accused, the civil claim shall be adjudicated in accordance with the procedures specified in the Civil Procedure Law, and the person directing the proceedings shall notify such persons thereof within a term of one month after the day of the coming into force of this Law.

9. The terms "*izziņas iestāde*" (inquiry institution) and "*izziņas izdarītājs*" (performer of an inquiry) used in regulatory enactments up to the gradual updating of the editing of such enactments shall hereinafter be understood as the terms "*izmeklēšanas iestāde*" (investigative institution) and "*izmeklētājs*" (investigator).

10. Section 353, Paragraph three, Section 354, and Section 528, Clause 13 of this Law shall come into force simultaneously with the Law On the Victim Compensation Fund.

11. Up to 1 January 2006, the function referred to in Section 415, Paragraph six, Clauses 3 and 4 of this Law shall be ensured by the State Police in place of the State Probation Service.

12. Section 483, Paragraph one of this Law shall be in force in courts that have the necessary technical provisions.

13. Up to 1 April 2006, permits for the performance of special investigative actions shall be issued by:

1) a judge of the Supreme Court specially authorised by the Chairperson of the Supreme Court - for control of correspondence, control of means of communication, audio control of a site or a person, video control of a site, control of data in an electronic information system, and control of the content of broadcast data;

2) public prosecutors specially authorised by the Prosecutor General - for surveillance and tracing of a person, surveillance of an object, for a special investigative experiment,

for the obtaining in a special manner of samples necessary for a comparative study, and for control of criminal activity.

[28 September 2005]

14. If the summoning of a defence counsel who entered into an agreement with the Legal Assistance Administration is not possible, a person directing the proceedings has the right, as an exception, to summon, by 1 January 2008 and for the ensuring of defence, a defence counsel who does not have such agreement. In such case the defence counsel shall submit to the Legal Assistance Administration, within a term of one month from the moment of provision of legal assistance, a report regarding the provision of legal assistance, which has been certified by the person directing the proceedings.

[28 September 2005; 19 January 2006; 21 December 2006]

15. Prosecutor's office and investigative institutions shall decide, within a term of one month after the coming into force of this Law, the matter regarding the commencement of criminal proceedings or a refusal to commence criminal proceedings in connection with received application regarding prepared or committed criminal offences in relation to which an examination had been commenced in accordance with the procedures specified in Section 109 of the Criminal Procedure Code of Latvia.

[28 September 2005]

16. Complaints the adjudication of which has been commenced in accordance with Sections 220-222 of the Criminal Procedure Code of Latvia shall be decided in accordance with the procedures specified in the referred to Code.

[28 September 2005]

17. Up to the moment when the Law comes into force that determines the procedures for holding in detention, but not later than by 1 April 2006, Cabinet Regulations Nr. 211 of 29 April 2003, "Internal Procedure Regulations of Investigative Prisons", shall be in effect insofar as such Regulations are not in contradiction with this Law.

[28 September 2005]

18. With the coming into force of this Law the Criminal Procedure Code of Latvia is repealed.

[28 September 2005]

This Law comes into force on 1 October 2005.

This Law has been adopted by the *Saeima* on 21 April 2005.

President V. Vīķe-Freiberga

Rīga, 11 May 2005

Annex 1

Property upon which an Attachment shall not be Imposed

The following property in the property of persons shall not be subject to an arrest:

1. Domestic furnishings, household objects, and clothing that are necessary for the accused, his or her family, and the persons who are his or her dependents.

2. Food products that are necessary for the subsistence of an accused and his or her family.

3. Money whose total sum does not exceed the subsistence minimum, specified by the government for one month, for an accused and each of his or her family members.

4. Fuel that is necessary for the preparation of food for the family and heating of the dwelling space.

5. Equipment and tools that are necessary for the accused for the continuation of business or professional activities, except for cases where an undertaking has been found to be insolvent or the rights to certain employment have been taken away from the accused with a court judgment in a criminal case.

6. For persons whose employment is agriculture - one cow, heifer, goat, sheep, pig, poultry, and small stock, feedingstuffs for feeding the referred to animals up to the harvest of new feedingstuffs or the driving to pasture of livestock, as well as seed and planting material.

Offences regarding which a Person shall be Extradited to a European Union Member State without Examining whether such Offences are Criminal in Accordance with the Laws of Latvia:

1) participation in a criminal organisation;

2) terrorism;

3) trafficking in human beings;

4) sexual exploitation of children and child pornography;

5) illicit trafficking in narcotic drugs and psychotropic substances;

6) illicit trafficking in weapons, ammunition, and explosives;

7) corruption;

8) fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 29 July 1995 on the protection of the European Communities' financial interests;

9) laundering of the proceeds of crime;

10) counterfeiting currency;

11) computer-related crime;

12) environmental crime, including illicit trafficking in endangered animal species and endangered plant species and varieties;

13) facilitation of unauthorised entry and residence;

14) murder, grievous bodily injury;

15) illicit trade in human organs and tissue;

16) kidnapping, illegal restraint and hostage-taking;

17) racism and xenophobia;

18) organised or armed robbery;

19) illicit trafficking in cultural goods, including antiques and works of art;

20) swindling;

21) racketeering and extortion;

22) counterfeiting and piracy of products;

23) forgery of administrative documents and trafficking therein;

24) forgery of means of payment;

25) illicit trafficking in hormonal substances and other growth promoters;

26) illicit trafficking in nuclear or radioactive materials;

27) trafficking in stolen vehicles;

28) rape;
29) arson;
30) crimes within the jurisdiction of the International Criminal Court;
31) unlawful seizure of aircraft/ships;
32) sabotage.